

No. 13116

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United States  
Court of Appeals  
for the Ninth Circuit.

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PALOS VERDES CORPORATION,  
Appellant,  
vs.  
UNITED STATES OF AMERICA,  
Appellee.

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Transcript of Record

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Appeal from the United States District Court for the  
Southern District of California,  
Central Division.

FILED

JAN 21 1952

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PAUL P. O'BRIEN

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif. CLERK



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Appeal from the United States District Court for the  
Southern District of California,  
Central Division.

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## NAMES AND ADDRESSES OF ATTORNEYS

For Appellant:

RILEY and HALL,  
770 Subway Terminal Bldg.,  
Los Angeles 13, Calif.

For Appellee:

ERNEST A. TOLIN,  
United States Attorney,

E. H. MITCHELL, and  
EDWARD R. McHALE,  
Assistants U. S. Attorney,

EUGENE HARPOLE, and  
FRANK W. MAHONEY,  
Special Attorneys, Bureau of Internal  
Revenue,  
600 U. S. Post Office and Court House  
Bldg.,  
Los Angeles 12, Calif.



In the District Court of the United States in and  
for the Southern District of California, Central  
Division

No. 11417-PH

PALOS VERDES CORPORATION, a Corpora-  
tion,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

## COMPLAINT FOR REFUND OF INCOME TAX

Comes Now the Plaintiff in the above-entitled  
action and for cause of action against Defendant,  
complains and alleges:

### I.

That Plaintiff is a Corporation organized under  
and pursuant to the laws of the State of Delaware,  
with its principal office and place of business lo-  
cated in the City of Wilmington, County of New-  
castle, State of Delaware. That at all times herein  
mentioned, Plaintiff was and is duly authorized to  
transact business in the State of California and has  
at all times herein mentioned transacted and is  
doing business in the County of Los Angeles, State  
of California.

### II.

That Harry C. Westover, the Collector of In-  
ternal Revenue, Sixth District of California, Los

Angeles, California, to whom the income tax herein-after mentioned was paid in his official capacity as such Collector of [2\*] Internal Revenue is not in office at the time of the filing of this action.

### III.

That the question involved herein is one arising under the laws of the United States of America providing for internal revenue and more specifically Section 117 of the Internal Revenue Code.

### IV.

That in the month of July, 1944, Plaintiff sold to one Snow an unsubdivided portion of Plaintiff's real property in the County of Los Angeles, State of California, for the sum of \$90,000.00. Said real property had a cost basis to Plaintiff of the sum of \$23,636.93, resulting in a profit or gain of \$66,363.07. That during the fiscal year of Plaintiff commencing October 1, 1943, and ending September 30, 1944, Plaintiff received from said Snow on account of said purchase price of \$90,000.00, the sum of \$27,000.00 and elected, pursuant to Section 44(b) of the Internal Revenue Code to report for income tax purposes said sale upon the Installment Basis. That thereafter, on or about December 15, 1944, Plaintiff filed its Corporation Income and Declared Value Excess Profits Tax Return for its fiscal year ended September 30, 1944, with Harry C. Westover, Collector of Internal Revenue, Los Angeles, California, for the 6th District of California, and

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\* Page numbering appearing at foot of page of original Reporter's Transcript of Record.

thereafter paid to said Collector of Internal Revenue the sum of \$17,066.36 as Income and Declared Value Excess Profits Tax for said fiscal year. That Plaintiff erroneously reported on said Income and Declared Value Excess Profits Tax Return the sum of \$19,908.22, the reportable gain derived from said sale during said fiscal year ended September 30, 1944.

That Plaintiff failed to report said gain of \$19,908.22 as a gain from the sale of capital assets of Plaintiff as provided in Section 117 (a) (10) of the Internal Revenue Code and/or as a gain from the sale of property used in taxpayer's trade or business as provided in Section 117 (j) of the Internal Revenue Code. That as a consequence of Plaintiff's said erroneous report of income in said Income and Declared Value Excess Profits Tax Return for the fiscal year ended September 30, 1944, Plaintiff overpaid to said Collector of [3] Internal Revenue the sum of \$5,467.88 as income and Excess Profits Tax and said sum of \$5,467.88 was erroneously and illegally collected by said Collector of Internal Revenue.

#### V.

That on or about May 9, 1945, Plaintiff filed its Claim for Refund, a copy of which is attached hereto, marked Exhibit "A" and by this reference incorporated herein, in the sum of \$5,467.88, representing the above-mentioned sum erroneously paid and illegally collected, with Harry C. West-

over, the Collector of Internal Revenue for the 6th District of California.

That on or about October 27, 1946, Plaintiff filed its second Claim for Refund, a copy of which is attached hereto, marked Exhibit "B" and by this reference incorporated herein in the sum of \$5,467.88 representing the above-mentioned sum erroneously paid and allegedly collected, with said Collector of Internal Revenue for the Sixth District of California at his office in Los Angeles, California.

That said Claims for Refund were filed on official form 843 within the time and in the manner provided by law.

#### VI.

That on or about the 4th day of August, 1949, the Commissioner of Internal Revenue of the United States, rejected and disallowed Plaintiff's said Claims for Refund.

Wherefore, Plaintiff prays for judgment against the Defendant in the sum of \$5,467.88, together with interest thereon from date of payment, and for such other and further relief as the Court deems fitting and proper.

JOHN T. RILEY, and

MARSHALL D. HALL,

By /s/ MARSHALL D. HALL,

Attorneys for Plaintiff. [4]



EXHIBIT A

Form 843

Treasury Department

Internal Revenue Service

(Revised July 1947)

Claim

To be Filed with the Collector Where Assessment  
was Made or Tax Paid

The Collector will indicate in the block below the  
kind of claim filed, and fill in the certificate on the  
reverse.

☒ Refund of Taxes Illegally, Erroneously, or  
Excessively Collected.

☐ Refund of Amount Paid for Stamps Un-  
used or Used in Error or Excess.

☐ Abatement of Tax Assessed (not applicable  
to estate, gift, or income taxes).

Collector's Stamp (Date received): Blank.

State of California,

County of Los Angeles—ss.

Name of taxpayer or purchaser of stamps: Palos  
Verdes Corporation.

Business address: R. R. #1, Box #33, Rolling  
Hills via. Lomita, California.

Residence: .....

The deponent, being duly sworn according to law,  
deposes and says that this statement is made on  
behalf of the taxpayer named, and that the facts  
given below are true and complete:

1. District in which return (if any) was filed: 6th Dist. of California.

2. Period (if for tax reported on annual basis, prepare separate form for each taxable year) from: Oct. 1, 1943 to Sept. 30, 1944.

3. Character of assessment or tax: Income and Excess Profits Tax.

4. Amount of assessment, \$17,066.36; dates of payment: 12/15/44, 3/15/45, 6/15/45 and 9/15/45.

5. Date stamps were purchased from the Government:

6. Amount to be refunded: \$5,467.88.

7. Amount to be abated (not applicable to income, gift, or estate taxes):

8. The time within which this claim may be legally filed expires under section ..... of ..... (Revenue Act or Internal Revenue Code) on: December 15, 1947.

The deponent verily believes that this claim should be allowed for the following reasons:

During the fiscal year ended Sept. 30, 1944, a sale was made of an unsubdivided portion of taxpayers' property to one Snow for \$90,000.00, having a cost basis of \$23,636.93, leaving a profit of \$66,363.07. During the fiscal year taxpayer collected \$27,000.00, principal or 30% of the sale price and elected to report said sale on the Installment Basis—I.R.C. Sec. 44 (b).

Taxpayer erroneously reported returnable

income of \$19,908.22, from said sale as normal tax net income as item 14 in its Corporation Income and Declared Value Excess Profits Tax Return for its fiscal year ended Sept. 30, 1944.

Taxpayer failed to report returnable income of \$19,908.22, from said sale on Schedule C (Form 1120)—Schedule of Capital Gains and Losses as net gain from sale or exchange of capital assets as Item 12(a) from 1120. I.R.C. 117 (a) (10) (A); and taxpayer further failed to calculate alternative taxes on Schedule C (form 1120) I.R.C. 117 (c) (1).

[Seal]

PALOS VERDES  
CORPORATION,

/s/ KELVIN C. VANDERLIP.

This return was notarized.

(Seal)

The above claim for refund was prepared by the undersigned upon facts furnished by the taxpayer, which facts I believe to be true and correct.

JOHN T. RILEY. [5]

### Tax Calculation

Total Normal Tax and Surtax (Line 27, Page 2, Form 1120).....	\$17,066.36
Alternative Tax and Surtax (Line 29, Schedule C, Form 1120).....	11,598.48

Line 28, Page 2, Form 1120 should have been .....	11,598.48
Lines 41 and 45, Page 1, Form 1120 should have been.....	11,598.48
Overassessment .....	5,467.88

## EXHIBIT B

### Claim

Form 843

Treasury Department

Internal Revenue Service

(Revised July 1947)

To be Filed with the Collector Where Assessment  
was Made or Tax Paid

Second Filing of Claim—Original Filed May  
9, 1945

The Collector will indicate in the block below the  
kind of claim filed, and fill in the certificate on the  
reverse.

- ☐ Refund of Taxes Illegally, Erroneously,  
or Excessively Collected.
- ☐ Refund of Amount Paid for Stamps Un-  
used, or Used in Error or Excess.
- ☐ Abatement of Tax Assessed (not applicable  
to estate, gift, or income taxes).

Collector's Stamp (Date received): Blank.

State of California,  
County of Los Angeles—ss.

Name of taxpayer or purchaser of stamps: Palos  
Verdes Corporation.

Business address: R. R. #1, Box #33, Rolling  
Hills via. Lomita, California.

Residence: .....

The deponent, being duly sworn according to law,  
deposes and says that this statement is made on  
behalf of the taxpayer named, and that the facts  
given below are true and complete:

1. District in which return (if any) was filed:  
6th Dist. of California.

2. Period (if for tax reported on annual basis,  
prepare separate form for each taxable year) from:  
Oct. 1, 1943 to Sept. 30, 1944.

3. Character of assessment or tax: Income and  
Excess Profits Tax.

4. Amount of assessment, \$17,066.36; dates of  
payment: 12-15-44, 3-15-45, 6-15-45 and 9-15-45.

5. Date stamps were purchased from the Gov-  
ernment:

6. Amount to be refunded: \$5,467.88.

7. Amount to be abated (not applicable to in-  
come, gift, or estate taxes):

8. The time within which this claim may be  
legally filed expires, under section ..... of .....  
(Revenue Act or Internal Revenue Code) on:  
December 15, 1947.

The deponent verily believes that this claim should be allowed for the following reasons:

During the fiscal year ended Sept. 30, 1944, a sale was made of an unsubdivided portion of taxpayer's property to one Snow for \$90,000.00, having a cost basis of \$23,636.93, leaving a profit of \$66,363.07. During the fiscal year taxpayer collected \$27,000.00, principal or 30% of the sale price and elected to report said sale on the Installment Basis—I.R.C. Sec. 44(b).

Taxpayer erroneously reported returnable income of \$19,908.22, from said sale as normal tax net income as item 14 in its Corporation Income and Declared Value Excess Profits Tax Return for its fiscal year ended Sept. 30, 1944.

Taxpayer failed to report returnable income of \$19,908.22, from said sale on Schedule C (Form 1120) Schedule of Capital Gains and Losses as net gain from sale or exchange of capital assets as item 12(a) Form 1120. I.R.C. 117 (a) (10) (A); and taxpayer further failed to calculate alternative taxes on Schedule C (Form 1120) I.R.C. 117 (c) (1).

[Seal]

PALOS VERDES  
CORPORATION,

/s/ K. C. VANDERLIP.

Subscribed and sworn to before me this 27th day of Oct., 1946.

[Seal]

GENEVA SCHWARTZ.



The above claim for refund was prepared by the undersigned upon facts furnished by the taxpayer, which facts I believe to be true and correct.

JOHN T. RILEY. [7]

Tax Calculation

Total Normal Tax and Surtax (Line 27, Page 2, Form 1120).....	\$17,066.36
Alternative Tax and Surtax (Line 29, Schedule C, Form 1120).....	11,598.48
Line 28, Page 2, Form 1120 should have been .....	11,598.48
Lines 41 and 45, Page 1, Form 1120 should have been.....	11,598.48
Overassessment .....	5,467.88

State of California,  
County of Los Angeles—ss.

Kelvin C. Vanderlip, being by me first duly sworn, deposes and says: that he is the President of Palos Verdes Corporation, the Plaintiff in the above-entitled action; that he has read the foregoing Complaint for Refund of Income Tax and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon his information or belief, and as to those matters that he believes it is true.

/s/ KELVIN C. VANDERLIP.

Subscribed and sworn to before me this 6th day of April, 1950.

[Seal]      /s/ G. M. STRETCH,  
Notary Public in and for the County of Los Angeles, State of California.

My commission expires April 16, 1951.

[Endorsed]: Filed April 11, 1950. [9]

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[Title of District Court and Cause.]

### ANSWER

Comes now the defendant in the above-entitled action and, in answer to plaintiff's complaint, admits, denies and alleges:

#### I.

Admits the allegations contained in paragraph I thereof.

#### II.

Admits the allegations contained in paragraph II thereof.

#### III.

Admits the allegations contained in paragraph III thereof.

#### IV.

Denies the allegations contained in paragraph IV thereof except as in this paragraph expressly admitted or alleged.

It is admitted that in the month of July, 1944, plaintiff sold to one Snow an unsubdivided portion



of its real property in the County of Los Angeles, State of California, for the sum of \$90,000; that said property had a cost basis to [10] plaintiff of \$23,636.93, and that the gain realized on the sale was \$66,363.07.

It is also admitted that during the fiscal year ended September 30, 1944, plaintiff received from Snow on account of the purchase price the sum of \$27,000, and elected, pursuant to Section 44 of the Internal Revenue Code, to report the gain from said sale on the installment basis for income tax purposes; that in accordance with such election, plaintiff reported as ordinary income in its income and declared value excess profits tax return for the fiscal year ended September 30, 1944, the sum of \$19,098.22, being the portion of the gain allocable to said fiscal year.

It is further admitted that plaintiff's income and declared value excess profits tax return for the fiscal year ended September 30, 1944, was filed at the time and place alleged and that the reported tax of \$17,066.36; was paid to Collector Westover.

#### V.

In answer to paragraph V thereof, defendant admits that plaintiff filed claims for refund on or about May 9, 1945, and on or about October 27, 1946. Defendant denies, however, that the sum alleged was erroneously paid and/or illegally collected.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the and as to those matters that he believes it is true.

Schedule C, Form 1130)..... 11,598.48

allegations contained in Exhibits A and B attached to plaintiff's complaint, except insofar as such allegations are consistent with the expressed admissions contained in this answer.

## VI.

Admits the allegations contained in paragraph VI thereof.

Wherefore, having fully answered, defendant prays that it be hence dismissed with its costs in this behalf expended.

ERNEST A. TOLIN,  
United States Attorney,

E. H. MITCHELL, and  
EDWARD R. McHALE,  
Assistants United States  
Attorney.

EUGENE HARPOLE, and  
FRANK W. MAHONEY,  
Special Attorneys, Bureau of  
Internal Revenue.

/s/ E. H. MITCHELL,  
Attorneys for Defendant.

Affidavit of Service by Mail attached.

[Endorsed]: Filed Aug. 16, 1950. [11]

[Title of District Court and Cause.]

## STIPULATION OF FACTS

It Is Hereby Stipulated and Agreed by and between the parties hereto, through their respective counsel, that the following facts may be taken as true, subject to objection insofar as immateriality, irrelevancy, and incompetency. The execution and filing of the stipulation shall not preclude either party from offering and including such additional evidence as is not inconsistent therewith.

1. This is an action for refund of income tax arising under the provisions of the Internal Revenue Code of the United States. Harry C. Westover, the Collector of Internal Revenue, Sixth District of California, to whom the income tax herein involved was paid in his official capacity as such Collector was not in office at the time of filing of this action, to wit, April 11, 1950.

2. On December 15, 1944, plaintiff filed with the Collector of Internal Revenue, Sixth District of California, its Corporation Income [13] and Declared Value Excess Profits Tax Return for the period commencing October 1, 1943, and ending September 30, 1944, and paid to said Collector the sum of \$17,066.36, a copy of which return is attached hereto and made a part hereof as Exhibit 1.

Plaintiff filed its claim for refund in the amount of \$5,467.88, with Harry C. Westover, said Collector, on March 9, 1945, a copy of which is attached hereto, made a part hereof as Exhibit 2.

Plaintiff filed again its claim for refund with said Collector on October 30, 1946, in said amount, a copy of which is attached hereto and made a part hereof as Exhibit 3. By letter to plaintiff dated August 4, 1949, the Commissioner of Internal Revenue of the United States disallowed said claim for refund, a copy of said letter is attached hereto and made a part hereof as Exhibit 4.

3. Plaintiff is a corporation organized November 27, 1925, under the laws of the state of Delaware with its principal office and place of business located in the City of Wilmington, County of Newcastle, Delaware. Since 1926, plaintiff has transacted and is doing business in the County of Los Angeles, State of California. Plaintiff took over from Palos Verdes Syndicate as of January 1, 1926, approximately 12,245 acres of land in the County of Los Angeles, State of California, with other assets, giving in exchange therefor 54,000 shares of its common stock having an aggregate par value of \$5,400,000, issued pro rata to the members of the Syndicate as their interests appeared. Said land was known as "Rancho Palos Verdes."

4. In the month of July, 1944, plaintiff sold to one Snow an unsubdivided portion of plaintiff's real property in the County of Los Angeles, State of California, for the sum of \$90,000.00. Said real property has a cost basis to plaintiff of the sum of \$23,636.93, resulting in a profit or gain of \$66,363.07. During the fiscal year of plaintiff commencing October 1, 1943, and ending September 30,

1944, plaintiff received from said Snow on account of said purchase price of \$90,000.00, the sum of \$27,000.00, and elected pursuant to Section 44 (B) of the Internal Revenue [14] Code to report for income tax purposes said sale upon the installment basis. Said real property sold to Snow was acquired by the plaintiff as part of said 12,245 acres of land transferred to plaintiff as of January 1, 1926, in exchange for its common stock. Said real property has been owned and held by plaintiff since said date to wit, January 1, 1926.

5. Attached hereto and made a part hereof as Exhibit 5 is the yearly income derived by plaintiff from farm and pasture rentals, rock and earth royalties and crop sales of Rancho Palos Verdes from 1932 to and including September 30, 1944.

6. Attached hereto and made a part hereof as Exhibit 6 is the yearly income of plaintiff derived from leasing for agricultural purposes of real property included in the parcel sold to Snow in July, 1944, for the fiscal year ending September 30, for the years 1939-1944, inclusive.

7. Attached hereto and made a part hereof as Exhibit 7 are the yearly sales by plaintiff, the number of acres and selling price of the unsubdivided portions and of the subdivided portions of Rancho Palos Verdes for the fiscal years ending September 30, 1939, through September 30, 1944.

8. Attached hereto and made a part hereof as Exhibit 8 is a true and correct copy of the body

of the Deed of Conveyance from plaintiff to Snow dated July . . , 1944.

9. Attached hereto and made a part hereof as Exhibit 9 are the real property taxes of plaintiff for the years 1935-36, to and including 1942-43.

Dated this 1st day of May, 1951.

RILEY and HALL,

By /s/ WILLIAM D. BEHNKE,  
Attorney for Plaintiff.

ERNEST A. TOLIN,  
United States Attorney,

E. H. MITCHELL, and  
EDWARD R. McHALE,  
Assistants U. S. Attorney.

EUGENE HARPOLE, and  
FRANK W. MAHONEY,  
Special Attorneys, Bureau of  
Internal Revenue.

By /s/ FRANK W. MAHONEY,  
Attorneys for Defendant. [15]



EXHIBIT 1

United States of America  
Treasury Department  
Washington

July 20, 1950

To All to Whom These Presents Shall Come,  
Greeting:

I certify that the annexed are true copies of Corporation Income and Declared Value Excess-Profits Tax and Corporation Excess Profits Tax Returns for fiscal year ending September 30, 1944 (with schedules attached to former return) filed by Palos Verdes Corporation, Rolling Hills via Lomita, California, on file in this Department.

In Witness Whereof, I have hereunto set my hand, and caused the seal of the Treasury Department to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

[Seal]      /s/ A. L. DUNCAN,

Assistant Head, Records Division Income Tax Unit,  
Bureau of Internal Revenue.





FOLD

22

UNITED STATES

CORPORATION INCOME AND DECLARED VALUE EXCESS-PROFITS TAX RETURN

For Calendar Year 1942

Less: Income subject to excess profits tax. (From Form 1121)  
 Dividends received credit (85 percent of column 2, Schedule E, but not in excess of 85 percent of item 37 minus item 38, above)  
 Normal-tax net income

**TOTAL INCOME AND DECLARED VALUE EXCESS-PROFITS TAXES**

Total income tax (line 28 or 50, page 2, whichever is applicable)  
 Less: Credit for income taxes paid to a foreign country or United States possession allowed a domestic corporation  
 Balance of income tax

45. Total declared value excess-profits tax (line 8, page 2) 17,066.36

46. Total income and declared value excess-profits taxes due 17,066.36

47. We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself depose and say that this return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return, made in good faith, for the taxable year stated, pursuant to the Internal Revenue Code and the regulations issued thereunder.

Subscribed and sworn to before me this 14th day of December, 1942

John C. Gurnea (signature of officer administering oath)  
 Notary Public  
 My Comm. Expires 1943

48. I/we swear (or affirm) that I/we prepared this return for the person named herein and that this return (including any accompanying schedules and statements) is a true, correct, and complete statement of all the information required and that the liability of the person for whom this return has been prepared of which I/we have any knowledge.

Subscribed and sworn to before me this 14th day of December, 1942

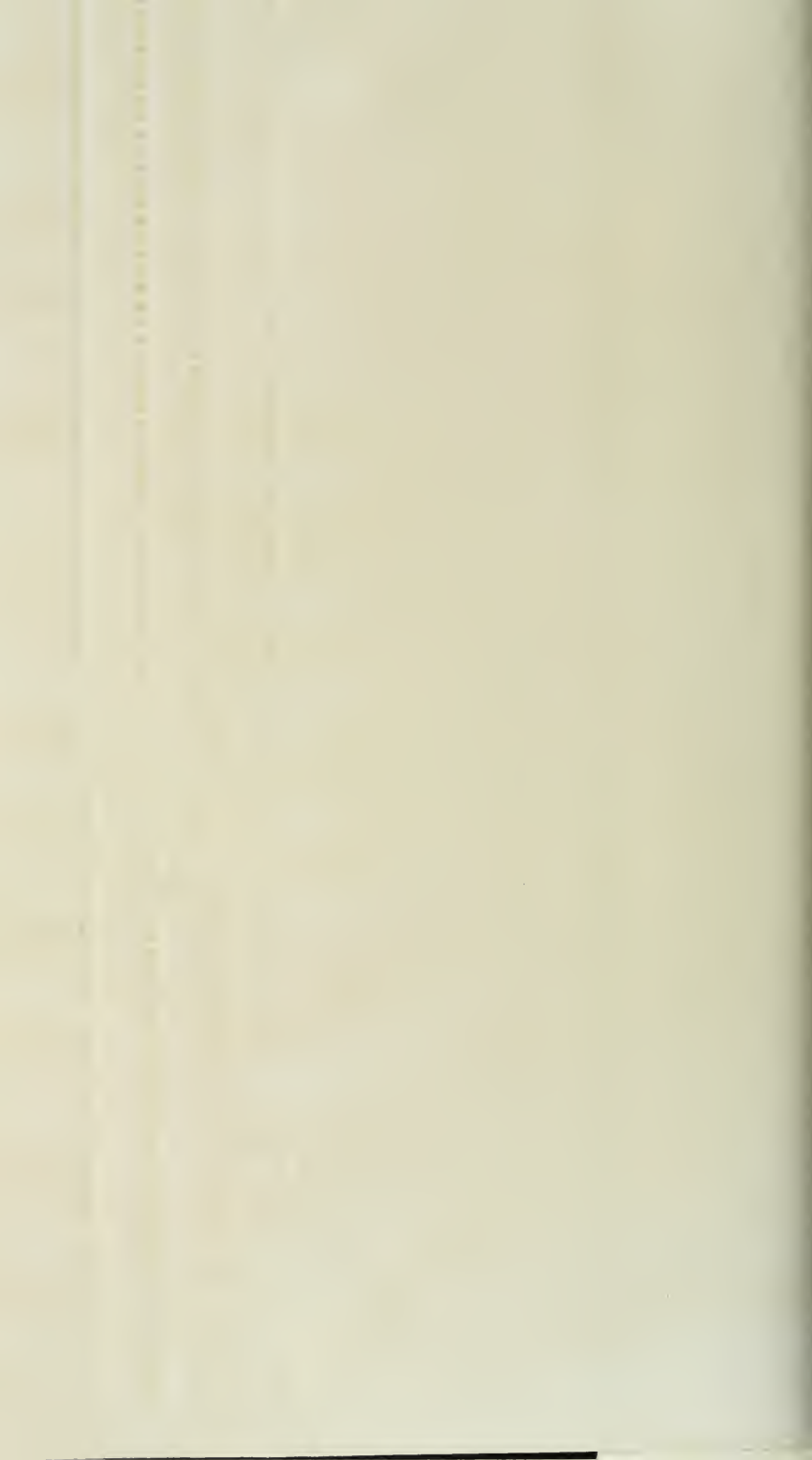
John C. Gurnea (signature of person preparing the return)  
 My Comm. Expires 1943  
 My Comm. Expires 1943  
 My Comm. Expires 1943

NOTARIAL SEAL

NOTARIAL SEAL

CALIFORNIA

A-1













1. Cash		\$ 22,957.87	\$ 22,957.87
2. Notes and accounts receivable	\$ 79,961.80		\$ 79,961.80
Less: Reserve for bad debts	\$ 3,000.00		\$ 3,000.00
3. Inventories (Itemize in separate schedule)		\$ 78,961.80	\$ 78,961.80
4. Investments in governmental obligations:			
(a) Obligations of the United States government, or the District of Columbia, or United States possessions:			
(i) Obligations issued on or before September 1, 1917, all postal savings bonds, Treasury notes issued prior to December 1, 1941, and Treasury bonds:			
(ii) United States savings bonds:			
(iii) Treasury bonds issued on or after September 1, 1917, and all other obligations of the United States issued on or after March 1, 1941:			
(b) Obligations of Federal land banks, joint stock land banks, and Federal land banks:			
(c) Obligations of Federal land banks issued prior to March 1, 1941:			
(d) Obligations of Federal land banks issued on or after March 1, 1941:			
(e) Obligations of instrumentalities of the United States issued on or after March 1, 1941:			
5. Other investments (Itemize)		\$1,900.00	\$1,900.00
6. Capital assets:			
(a) Depreciable assets (Itemize in separate schedule)	\$ 107,139.95		\$ 107,139.95
Less: Reserve for depreciation	\$ 62,663.95		\$ 62,663.95
(b) Depletable assets		\$ 44,475.90	\$ 44,475.90
Less: Reserve for depletion			
(c) Land		\$ 1,976,797.66	\$ 1,976,797.66
7. Other assets (Itemize)			
8. Total Assets		\$5,298,371.31	\$5,298,371.31
LIABILITIES			
9. Accounts payable		\$ 62,224.73	\$ 62,224.73
10. Bonds, notes, and mortgage payable:			
(a) With original maturity of less than 1 year	\$ 86,000.00		\$ 86,000.00
(b) With original maturity of 1 year or more		\$ 86,000.00	\$ 86,000.00
11. Accrued expenses (Itemize):			
Interest	\$ 330.34		\$ 330.34
Commissions	\$ 437.50		\$ 437.50
12. Other liabilities (Itemize):			
Taxes	\$ 147,882.60		\$ 147,882.60
Assessments	\$ 1,117.44		\$ 1,117.44
13. Surplus reserves (Itemize in separate schedule)		\$ 6,087.08	\$ 6,087.08
14. Capital stock:			
(a) Preferred stock			
(b) Common stock		\$ 5,400,000.00	\$ 5,400,000.00
15. Paid-in or capital surplus	(427,933.83)		(427,933.83)
16. Earned surplus and undivided profits	122,625.45	(305,308.38)	(182,682.93)
17. Total Liabilities		\$5,298,371.31	\$5,298,371.31

**Schedule M.—RECONCILIATION OF NET INCOME AND ANALYSIS OF EARNED SURPLUS AND UNDIVIDED PROFITS**

1. Total distributions to stockholders charged to earned surplus during the taxable year:			
(a) Cash			
(b) Stock of the corporation			
(c) Other property			
2. Contributions (excess over 5 percent limitation)			
3. Federal income and excess-profits taxes			
4. Income taxes claimed as a credit in whole or in part in item 42, page 1			
5. Federal taxes paid on tax-free covenant bonds			
6. Excess of capital losses over capital gains			
7. Additions to surplus reserves (list separately):			
(a)			
(b)			
8. Other allowable deductions:			
(a)			
(b)			
9. Adjustments not recorded on books (Itemize):			
(a)			
(b)			
10. Surplus credits to earned surplus (Itemize):			
(a)			
(b)			
11. Earned surplus and undivided profits at close of the taxable year (Schedule L)	168,538.06		168,538.06
12. Total of lines 1 to 11	\$ 168,538.06		\$ 168,538.06
See schedule attached			
13. Earned surplus and undivided profits at close of preceding taxable year (Schedule L)			
14. Adjusted net income (Item 37, page 1)			
15. Non-taxable and partially exempt income:			
(a) Interest on:			
(i) Obligations of a foreign government, or political subdivision thereof, or the District of Columbia, or United States possessions:			
(ii) Obligations of the United States:			
(i) Obligations issued on or before September 1, 1917, all postal savings bonds, Treasury notes issued prior to December 1, 1941, and Treasury bonds issued prior to March 1, 1941:			
(ii) United States savings bonds and Treasury bonds owned in the principal amount of \$5,000 or less, issued prior to March 1, 1941:			
(iii) United States savings bonds and Treasury bonds owned in excess of the principal amount of \$5,000 issued prior to March 1, 1941:			
(d) Obligations of instrumentalities of the United States:			
(i) Obligations of Federal land banks, joint stock land banks, and Federal intermediate credit banks issued prior to March 1, 1941:			
(ii) Obligations issued by other instrumentalities of the United States prior to March 1, 1941:			
(b) Other nontaxable income (Itemize):			
(i) Assessment bonds—property			
(ii) abandoned A liabilities cancelled			
16. Charges against surplus reserves (Itemize):			
17. Adjustments not recorded on books (Itemize):			
18. Surplus credits to earned surplus (Itemize):			
19. Total of lines 13 to 18			

**EXCESS PROFITS TAX. (See Instructions for Form 1121)**

- (a) Is an excess profits tax return on Form 1121 being filed for the taxable period covered by this return? **Yes**
- (b) If a personal service corporation (other than a member of an affiliated group of corporations filing a consolidated return) signifies below its date that it is not to be subject to the excess profits tax, it shall be exempt from such tax and the provisions of Supplement S, Chapter 1, shall apply to shareholders in such corporation who were such shareholders on the last day of the taxable year of the corporation. (Attach Form 1121.)
- (c) If corporation claims exemption under section 727 of the Internal Revenue Code, state basis of claim.
- (d) If an excess profits tax return is not being filed for the reason that it is claimed that the excess profits net income computed under the inverted asset method is not greater than \$5,000, the following Schedule N should be filed in. The completion of Schedule N does not constitute the filing of an excess profits tax return.

**Schedule N—EXCESS PROFITS NET INCOME COMPUTATION**

1. Start with net income (computed without credit for income subject to excess profits tax) (Form 38, page 1)			
2. Net short-term capital gain (do not enter net short-term capital loss)			
3. 50 percent of interest on borrowed capital			
4. Adjustment to net operating loss deduction under section 711 (a) (2) (L)			
5. Total of lines 1 to 4			
6. Dividends received credit adjustment (Form 10, page 1, including the sum of (a) Dividends received from corporations, and (b) Dividends received from foreign persons, holding companies, and (c) Dividends received on stock held primarily for sale to customers by a dealer in securities, unless such stock is listed)			
7. Net gain from sale or exchange of capital assets (Form 12 (a), page 1)			
8. Income from retirement or discharge of bonds, etc.			
9. Refunds and interest on Agricultural Adjustment Act taxes			
10. Recoveries of bad debts			
11. Total of lines 5 to 10			

12. Excess profits net income (for purpose of determining necessity for filing return) (Line 5 minus line 11)





## Palos Verdes Corporation

## Income Tax Return

October 1, 1943, to September 30, 1944

## Item 14—

Ranch produce .....	\$ 38,575.52
Sales of land.....	\$305,593.67
Less cost of land sold.....	\$245,986.63
appreciation .....	132,742.85    113,243.78
	<u>\$192,349.89</u>
Deduct unrealized profit on installment sale .....	46,454.15
	<u>145,895.74</u>
Profit subject to income tax.....	145,895.74
Sale of right of way to U.S. Navy.....	200.00
Profit on cancellation of real estate sale.....	700.00
Profit on sale of equipment.....	337.75
Discount earned .....	1.30
Miscellaneous income .....	55.23
	<u><u>\$185,765.54</u></u>
Page 1, item 14.....	<u><u>\$185,765.54</u></u>

## Item 29—

Sales expense .....	\$ 18,369.31
Office expense .....	2,257.40
New York office expense.....	3,289.59
Telephone and telegraph.....	2,075.15
Dues and subscriptions.....	643.28
Legal and auditing.....	8,045.91
Engineering expense .....	14,255.81
Condemnation expense .....	5,407.89
Insurance .....	1,829.22
Water .....	9,137.33
Gasoline and oil.....	482.11
Autos, trucks and tractors.....	1,429.98
Ranch expense .....	7,196.63
General expense .....	9,799.99
Work done on proposed subdivisions abandoned .....	10,658.45
Golf club—Palos Verdes—memberships abandoned .....	3,400.00
Miscellaneous expense .....	398.06

Page 1, item 29.....\$ 98,676.11

## Item 24—

This item represents cost of engineering and rough grade on proposed subdivision substantially all of which was washed out by rains. Entire plan now abandoned.....\$ 13,476.04

---

## Palos Verdes Corporation

## Depletion Schedule

October 1, 1943, to September 30, 1944

	Book Value	Cost Basis	Appreciat'n
Acreage 195.13 .....	\$91,806.70	\$37,143.92	\$55,662.78
Estimated recovery 800,000 tons—unit value .....	.1147584c	.0451790c	.0695785c
Production during year 466,428.6 tons .....	\$53,526.60	\$21,073.20	\$32,453.40
		(Item 26)	

The property herein involved was leased by the operators for purposes of extracting granite for use on federal projects in or near San Pedro, Calif. The land leased contained approximately the tonnage required and owing to the condition after quarrying operations are complete the property will have little or no value.

## Answer to Question 9(a)

1. Rancho Mutual Water Company, Rolling Hills, Calif.
2. 99.5%.
3. April 1936.
4. This company is a mutual water company organized in connection with taxpayers real estate development. It serves only land owners within the development who hold shares in conjunction with their land ownership. Ultimately all stock will be transferred when sales are completed. The subject company has been granted exemption from filing income tax returns. [22]

Palos Verdes Corporation

Schedule M

Reconciliation of Net Income and Analysis of  
Earned Surplus and Capital Deficit

	Together	Earned Surplus	Capital Deficit
Balance at October 1, 1943....	\$(305,308.38)	\$122,625.45	\$(427,933.83)
Income per tax return.....	44,464.83	44,464.83	
Assessments and accrued interest for local improvements credited to Surplus account property abandonment, sold to State for delinquent property tax and having no actual or book value .....	1,447.78	1,447.78	
Appreciation realized			
Sales .....	(132,742.85)		(132,742.85)
Depletion on quarry.....	( 32,453.40)		( 32,453.40)
	<u>\$(424,592.02)</u>	<u>\$168,538.06</u>	<u>\$(593,130.08)</u>

	Beginning of Year	End of Year
Balance sheet items—Schedule L, Line 13		
Deposits .....	\$6,000.00	\$ 4,035.00
Prepaid rents .....	87.08	1,612.00
Unrealized profits on installment sale.....	.....	46,454.15
	<u>\$6,087.08</u>	<u>\$52,101.15</u>



# UNITED STATES CORPORATION EXCESS PROFITS TAX RETURN For Calendar Year 1943

or fiscal year beginning Oct. 1, 1943, and ending Sept. 30, 1944

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

PALOS VERDES CORPORATION  
(Name)

Rural Route 1, Box 33  
(Street and number)

Rolling Hills via Lomita, California  
(City or Town) (State)

Business group serial number entered on page 1, Form 1120

## EXCESS PROFITS TAX COMPUTATION

File Code 56  
Social No. 94000  
District 6-Ca  
Date 18 1944  
Cash Check  
File payment

Line and Instruction No.

1. Excess profits net income (line 16, Schedule A) **Schedule attached**
2. Specific exemption **3/12 of \$5,000.00 and 9/12 of \$10,000.00**
3. Excess profits credit—based on income (line 46, Schedule B)
4. Excess profits credit—based on invested capital (line 41, Schedule C)
5. Unused excess profits credit adjustment (attach schedule)
6. Total of items 2 to 5
7. Difference between item 1 and item 6
8. Adjusted excess profits net income (item 7, column 1, or item 7, column 2, whichever is applicable)
9. 70 percent of item 8
10. Net income (computed without regard to the credit provided by section 26 (c) (item 35, page 1, Form 1120))
11. Less: (a) Dividends received credit (85 percent of total of item 2, Schedule E, Form 1120 (excluding dividends received on certain preferred stock of a public utility), but not in excess of 85 percent of item 10 above)  
(b) Dividends paid on certain preferred stocks if taxpayer is a public utility (line 20, page 2, Form 1120)  
\$
12. Surplus net income (computed without regard to the credit provided by section 26 (c))
13. 50 percent of item 12
14. Income tax under Chapter 1 (other than section 102) for the taxable year (item 41, page 1, Form 1120)
15. Excess of item 13 over item 14
16. Item 9, or item 15, whichever is lower
17. Amount deferred by reason of the application of section 710 (a) (5) (relating to abnormality under section 722) (attach schedule)
18. Excess profits tax:  
(a) Item 16 minus item 17  
(b) If schedule is filed under question 4(i), page 2, amount of tax as computed in such schedule  
(c) Item 18 (a) or item 18 (b), whichever is applicable
19. Less: Credit for income taxes paid to a foreign country or United States possession allowed to a domestic corporation (section 102 used in computing item 42, page 1, Form 1120)
20. Item 18 (a) minus item 19
21. Less: Credit for debt retirement (item 28, left column)
22. Item 20 minus item 21
23. Amount, if any, due to application of section 734 (adjustment in case of position inconsistent with prior income tax liability) (attach schedule)
24. Excess profits tax due (item 22 plus item 23, or item 22 minus item 23, whichever is applicable)
25. Balance of excess profits tax (item 18 (c), above)
26. Credit allowable under sections 730 and 731 (10 percent of item 25) (but in cases where item 12 is applied to, see Specific Instructions 25-28)
27. Lesser of amounts paid on indebtedness or net reduction in indebtedness under section 733 (b) (2)
28. Credit for debt retirement allowable under section 733 (4) percent of item 27, but not in excess of 10 percent of item 25)
29. Net post-war refund credit (item 26 minus item 28)

COLUMN 1  
INCOME CREDIT  
METHOD

COLUMN 2  
INVESTED CAPITAL  
CREDIT METHOD

\$ 5,000  
XXXXXX  
\$ 14,926.20  
\$ 1,441.7

\$ 11,164  
\$ 3,000  
XXXXXX  
\$ 11,164  
\$ 152,570  
\$ 10,000

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for his, said division and agree that this return (including any accompanying schedule and statement) has been prepared in accordance with the best of our knowledge and belief, a true, correct, and complete return, made in good faith, for the taxable year stated, pursuant to the Internal Revenue Act of 1936, as amended.

Subscribed and sworn to before me this 14th day of December, 1944.

Notary Public  
(Signature of officer administering oath) (Title)

Corporate Seal  
(State title)

I, the undersigned, certify that I have prepared this return for the person named herein and that the return (including any accompanying schedule and statement) is a true and correct statement of all the information respecting the excess profits tax liability of the person for whom this return has been prepared of which I am personally aware.

Subscribed and sworn to before me this 14th day of December, 1944.

Notary Public  
(Signature of officer administering oath) (Title)

Corporate Seal  
(State title)





## QUESTIONS

- (a) Date of incorporation April 27, 1926
- (b) State or country Delaware
- (c) Collector's office in which your income tax return for the taxable year was filed 6th Dist. of California
- (d) Is this a consolidated return? No If so, procure from the collector Form 851, Affiliations Schedule, which shall be filled in, return as a part of the consolidated income tax return.
- (e) In computing the excess profits credit under the invested capital method, do you elect to include in excess profits net income interest received by the amount of amortizable bond premium under section 125 attributable to all Government obligations described in section 22(b)(4) of the Revenue Code? (Answer "yes" or "no") None
- (f) Are you a transferor or transferee upon an exchange as defined by section 766 or 761 of the Internal Revenue Code? (Answer "yes" or "no") No If answer is "yes":
- (1) Check the appropriate sections and submit schedules showing computation: 719(a)(4) ☐; 721 ☐; 724 ☐; 731 ☐; 735(b) ☐; 735(c) ☐
- (2) From the schedules submitted under (1) above, enter any tax adjustment which results from the application of each of the following: 721, \$                     ; 724, \$                     ; 731, \$
- (3) From the schedules submitted under (1) above, enter any income adjustment which results from the application of each of the following: 721, \$                     ; 731, \$                     ; 735(b), \$                     ; 735(c), \$
- (g) State amount of total assets as of the end of the taxable year. (From Form 1120, page 4, line 3, last column), \$ 5,065,006.27

## Schedule A - EXCESS PROFITS NET INCOME COMPUTATION

Line No.	Column 1 Income Credit Method	Column 2 Interest Ca Credit Method
1. Normal-tax net income (computed without allowance of credit for income subject to excess profits tax and without allowance of dividends received credit) (item 37, page 1, Form 1120)	\$ <u>                    </u>	\$ <u>                    </u>
2. Net short-term capital gain (do not enter net short-term capital loss)	\$ <u>                    </u>	\$ <u>                    </u>
3. Adjustment to net operating loss deduction	\$ <u>                    </u>	\$ <u>                    </u>
4. Decrease in deductions limited by income	\$ <u>                    </u>	\$ <u>                    </u>
5. 50 percent of interest on borrowed capital	\$ <u>                    </u>	\$ <u>                    </u>
6. Interest on Government obligations (see question (e) above, for election)	\$ <u>                    </u>	\$ <u>                    </u>
7. Total of lines 1 to 6	\$ <u>                    </u>	\$ <u>                    </u>
8. Net gain from sale or exchange of capital assets (item 12 (a), page 1, Form 1120)	\$ <u>                    </u>	\$ <u>                    </u>
9. Income from retirement or discharge of bonds, etc.	\$ <u>                    </u>	\$ <u>                    </u>
10. Refunds and interest on Agricultural Adjustment Act taxes	\$ <u>                    </u>	\$ <u>                    </u>
11. Recoveries of bad debts	\$ <u>                    </u>	\$ <u>                    </u>
12. Increase in deductions limited by income	\$ <u>                    </u>	\$ <u>                    </u>
13. (a) Dividends received credit adjustment (item 13, page 1, Form 1120, excluding dividends received from foreign corporations)	\$ <u>                    </u>	\$ <u>                    </u>
(b) Dividends received credit adjustment (item 13, page 1, Form 1120, excluding dividends received from foreign personal holding companies and dividends received on stock held primarily for sale to customers by a dealer in securities)	\$ <u>                    </u>	\$ <u>                    </u>
14. Nontaxable income of certain industries with depletable resources	\$ <u>                    </u>	\$ <u>                    </u>
15. Total of lines 8 to 14	\$ <u>                    </u>	\$ <u>                    </u>
16. Excess profits tax net income computed without regard to deductions applicable to life insurance companies (line 7 minus line 15)	\$ <u>                    </u>	\$ <u>                    </u>
17. Deductions applicable to life insurance companies	\$ <u>                    </u>	\$ <u>                    </u>
18. Excess profits net income computed under income credit method or invested capital credit method (line 16, or line 16 minus line 17 in case of a life insurance company)	\$ <u>                    </u>	\$ <u>                    </u>





Schedule B

Excess Profits Credit—Based on Income

[Items 1 to 46—No data shown.]



## Schedule C—EXCESS PROFITS CREDIT—BASED ON INVESTED CAPITAL

34

Equity Invested Capital at the Beginning of the Taxable Year (See Instructions for Schedule C, lines 1 to 12, inclusive)		
1. Money paid in for stock, or as paid-in surplus, or as a contribution to capital		\$
2. Property paid in for stock, or as paid-in surplus, or as a contribution to capital		\$
3. Distributions of earnings and profits in stock of the corporation		\$ 1,660,454.00
4. (a) Accumulated earnings and profits		
(b) Adjustment for transferor's deficit under section 718 (c) (3)	\$ 122,625.15	
(c) Increase or decrease under section 761 (d) (1) on account of intercorporate liquidation	\$	
(d) Accumulated earnings and profits (from 4 (a)) as adjusted by item 4 (b) and (c)	\$	\$ 122,625.15
5. 25 percent of new capital paid in during a taxable year beginning after December 31, 1949		
6. Increase on account of intercorporate liquidation under section 761 (d) (2)		
7. Deficit in earnings and profits of another corporation under section 718 (a) (7)		
8. Total of lines 1 to 7		\$ 1,803,080.00
9. Less: Distributions made prior to the taxable year		
10. Earnings and profits of another corporation		
11. Decrease on account of intercorporate liquidation under section 761 (d) (2)		
12. Deficit in earnings and profits of another corporation (section 718 (a) (7))		
13. Total of lines 9 to 12		\$ -0-
14. Equity invested capital at 1	(line 8 minus line 13)	\$ 1,803,080.00
Average Reduction in Equity Invested Capital During the Taxable Year (See Instructions for Schedule C, lines 1 to 12, inclusive)		
15. Money paid in for stock, or as paid-in surplus, or as a contribution to capital		\$
16. Property paid in for stock		\$
17. Distributions of earnings and profits (other than earnings and profits of the taxable year) in stock of the corporation		\$
18. 25 percent of new capital paid in during a taxable year beginning after December 31, 1949		\$
19. Increase on account of intercorporate liquidation under section 761 (d) (2)		\$
20. Deficit in earnings and profits of another corporation under section 718 (a) (7)		\$
21. Total of lines 15 to 20		\$
22. Total of lines 15 to 20		\$ 1,803,080.00
Average Reduction in Equity Invested Capital During the Taxable Year (See Instructions for Schedule C, lines 1 to 12, inclusive)		
23. Distributions of earnings and profits of the taxable year		\$
24. Increase on account of intercorporate liquidation under section 761 (d) (2)		\$
25. Deficit in earnings and profits included in invested capital of another corporation (section 718 (a) (7))		\$
26. Total reductions in lines 23 to 25		\$
27. Average equity invested capital (line 22 minus line 26)		\$ 1,803,080.00
(See Instructions for Schedule C, lines 23 to 41, inclusive)		
28. Average borrowed capital (attach schedule)		\$
29. Average borrowed invested capital (50 percent of line 28)		\$
30. Average invested capital (line 28 plus line 29)		\$
31. Total inadmissible assets		\$
32. Total admissible and inadmissible assets		\$
33. Percentage which line 32 is of line 31		%
34. Reduction on account of inadmissible assets (percent of line 31)		%
35. Invested capital (line 31 minus line 34)		\$
36. Portion of line 35 (not in excess of \$5,000,000) and credit at 5 percent	\$ 1,803,080.00	5%
37. Portion of line 36 (over \$5,000,000, but not over \$10,000,000) and credit at 7 percent	\$	7%
38. Portion of line 36 (over \$10,000,000, but not over \$20,000,000) and credit at 6 percent	\$	6%
39. Portion of line 36 (over \$20,000,000) and credit at 5 percent	\$	5%
40. Excess profits credit—based on invested capital (total of lines 37 to 40)		\$ 114,216.40

\*

LINE 18—50000-0

B-4



EXHIBIT 2

United States of America  
Treasury Department  
Washington

July 20, 1950

To All to Whom These Presents Shall Come,  
Greeting:

I certify that the annexed is a true copy of Claim for Refund of \$5,467.88, Income and Excess Profits Tax for fiscal year ending September 30, 1944 (with additional sheet attached) filed by Palos Verdes Corporation Rolling Hills via Lomita, California, on file in this Department.

In Witness Whereof, I have hereunto set my hand, and caused the seal of the Treasury Department to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

[Seal]     /s/ A. L. DUNCAN,  
Assistant Head, Records Division Income Tax Unit,  
Bureau of Internal Revenue.



# CLAIM

TO BE FILED WITH THE COLLECTOR WHERE ASSIGNMENT WAS MADE OR TAX PAID

RECEIVED

JUN 27 1945

CLAIMS SECTION  
FOR EXCESS

COLLECTOR'S STAMP

(Date received)

RECEIVED

MAY 9 1945  
OIL INT DIV  
LOS ANGELES, CALIF.

The Collector will indicate in the block below the kind of claim filed, and fill in the certificate on the reverse side.

☒ REFUND OF TAX ILLEGALLY COLLECTED.

☐ REFUND OF AMOUNT PAID FOR STAMPS UNPAID, OR USED IN EXCESS OF EXCESS.

☐ ABATEMENT OF TAX ASSESSMENT (not applicable to estate or income taxes).

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

Feb. 140160-1945 List  
NC-9400062-1945 List

Name of taxpayer or purchaser of stamps Palos Verdes Corporation

Business address R. R. #1, Box #33, Rolling Hills via Lomita, California.

Residence

TYPE  
OR  
PRINT

The deponent, being duly sworn according to law, deposes and says that this statement is made on behalf of the taxpayer named and that the facts given below are true and complete:

1. District in which return (if any) was filed 6th Dist. of California
2. Period (if for income tax, make separate form for each taxable year) from Oct. 1 1943 to Sept. 30 1944
3. Character of assessment or tax Income and excess profits tax
4. Amount of assessment, \$17,066.36; dates of payment
5. Date stamps were purchased from the Government
6. Amount to be refunded \$15,167.88
7. Amount to be abated (not applicable to income or estate taxes)
8. The time within which this claim may be legally filed expires, under Section 1120 of the Revenue Act of 1939 on December 15, 1947

The deponent verily believes that this claim should be allowed for the following reasons:

During the fiscal year ended Sept. 30, 1944, a sale was made of an unsubdivided portion of taxpayers' property to one Snow for \$90,000.00, having a cost basis of \$23,636.93, leaving a profit of \$66,363.07. During the fiscal year taxpayer collected \$27,000.00, principal or 30% of the sale price and elected to report said sale on the Installment Basis - I.R.C. Sec. 44(b).

Taxpayer erroneously reported returnable income of \$19,908.22 from said sale as normal tax net income as item 14 in its Corporation Income and Declared Value Excess Profits Tax Return for its fiscal year ended Sept. 30, 1944.

Taxpayer failed to report returnable income of \$19,908.22 from said sale on Schedule C (Form 1120) Schedule of Capital Gains and Losses as net gain from sale or exchange of capital assets as item 12(a) form 1120. I.R.C. 117 (a) (10) (A), and taxpayer further failed to calculate Alternative Taxes on Schedule C (form 1120) I.R.C. 117(c)(1)

(Attach letter explaining items if space is not sufficient)

Return to and subscribed before me this

Signed PALOS VERDES CORPORATION

day of May 1945

By

W. L. W. W. W. W.  
Pres.

(Signature of officer administering oath)

(Title)

USE INSTRUCTIONS ON REVERSE SIDE

The above claim for refund was prepared by the undersigned upon facts furnished by the taxpayer, which facts I believe to be true, and correct.





# CERTIFICATE

37

I certify that an examination of the records of this office shows the following facts as to the assessment and payment of the tax: (Show, in the ninth column, by symbols "Pd.," "Ab.," or "Cr.," the nature of each entry in the eighth column.)

Claim No.	Class of tax and taxable year or period	ASSESSMENT LIST			ACCOUNT NO. OR		AMOUNT ASSESSED		PAID, ABATED, OR CREDITED			Pd. Ab. Cr.	
		List	Month	Year	Page	Line			Date	Amount			
10/1/43 - 9/30/44	IT	Feb.	1945	410160			\$	17.066	36	12/15/44	\$ 4.266	59	Pd.
										3/15/45	4.266	59	Pd.
											8.533	18	Rel.
10/1/43 - 9/30/44	IT		1945	KC-9400062				None			None		
Total,						\$	17.066	36	Total,	\$	17.066	36	

I certify that the records of this office show the following facts as to the purchase of stamps:

To Whom Sold or Issued	Kind	Number	Denomination	Date of sale or issue	Amount	If special tax stamp, state:	
						Serial number	Period commencing
					\$		

*Harry C. Westover*  
Collector of Internal Revenue.

6th Calif.  
(District)

Claim examined by—  
\_\_\_\_\_  
Claim approved by—  
\_\_\_\_\_  
Chief of Division.

COMMITTEE ON CLAIMS

re

Amount claimed \$ \_\_\_\_\_

Amount allowed \$ \_\_\_\_\_

Amount rejected \$ \_\_\_\_\_

## INSTRUCTIONS

- The claim must set forth in detail and under oath each ground upon which it is made, and facts sufficient to apprise the Commissioner of the exact basis thereof.
- The claim should be sworn to by the taxpayer, if possible. Whenever it is necessary to have the claim executed by an attorney or agent, on behalf of the taxpayer, an authenticated copy of the document specifically authorizing such agent or attorney to sign the claim on behalf of the taxpayer shall accompany the claim. The oath will be administered without charge by any collector, deputy collector, or internal revenue agent.
- If a return is filed by an individual and a refund claim is thereafter filed by a legal representative of the deceased, certified copies of the letters testamentary, letters of administration, or other similar evidence must be annexed to the claim, to show the authority of the executor, administrator, or other fiduciary by whom the claim is filed. If an executor, administrator, guardian, trustee, receiver, or other fiduciary files a return and thereafter refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made on the claim showing that the return was filed by the fiduciary and that the latter is still acting.
- Where the taxpayer is a corporation, the claim shall be signed with the corporate name, followed by the signature and title of the officer having authority to sign for the corporation.



## Tax Calculation

Total normal tax and surtax (line 27, page 2, Form 1120) .....	\$17,066.36
Alternative tax and surtax (line 29, Schedule C, Form 1120) .....	11,598.48
Line 28, page 2, Form 1120 should have been .....	11,598.48
Lines 41 and 45, page 1, Form 1120 should have been .....	11,598.48
Overassessment .....	5,467.88

## EXHIBIT 3

United States of America  
Treasury Department  
Washington

July 20, 1950

To All to Whom These Presents Shall Come,  
Greeting:

I certify that the annexed is a true copy of Claim for Refund (second filing) of \$5,467.88, Income and Excess Profits Tax for fiscal year ending September 30, 1944 (with additional sheet attached) filed by Palos Verdes Corporation, Rolling Hills via Lomita, California, on file in this Department.

In Witness Whereof, I have hereunto set my hand, and caused the seal of the Treasury Depart-

ment to be affixed, on the day and year first above written.

By direction of the Secretary of the Treasury:

[Seal]      /s/ A. L. DUNCAN,  
Assistant Head, Records Division Income Tax Unit,  
Bureau of Internal Revenue.

SECOND FILING OF CLAIM - ORIGINAL FILED MAY 9, 1945  
**CLAIM**

TO BE FILED WITH THE COLLECTOR WHERE ASSESSMENT WAS MADE OR TAX PAID

The Collector will indicate in the black box the type of claim filed, and fill in the certificate on the reverse side.

- ☐ REFUND OR TAX ILLEGALLY COLLECTED
- ☐ REFUND OF AMOUNT PAID FOR STAMPS UNLAWFULLY ASSESSED IN ERROR OR EXCESS
- ☐ ABATEMENT OF TAX ASSESSED (not applicable to estate, gift, or income taxes)

JUN 2 1947

COLLECTOR'S STAMP

(Date received)

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

Feb. 410160-'45 L.  
RC-9400062-'45 L.

Name of taxpayer or purchaser of stamps PALOS VERDES CORPORATION

Business address R. R. #1, Box #33, Rolling Hills via Lomita, California.

Residence

TYPE  
OR  
PRINT

The deponent, being duly sworn according to law, depose and says that this statement is made on behalf of the taxpayer named and that the facts given below are true and complete:

District in which return (if any) was filed 6th Dist. of California

Period (if for income tax, make separate form for each taxable year) from Oct. 1, 1943, to Sept. 30, 1944

Character of assessment or tax Income and excess profits tax

Amount of assessment, \$ 17,066.38; dates of payment 12-15-44, 3-15-45, 6-15-45 and 9-15-45

Date stamps were purchased from the Government

Amount to be refunded \$ 5,467.88

Amount to be abated (not applicable to income, gift, or state taxes)

The time within which this claim may be legally filed expires, under Section 1120 of the Revenue Act of 1944 on December 15, 1947

The deponent verily believes that this claim should be allowed for the following reasons:

During the fiscal year ended Sept. 30, 1944, a sale was made of an unsubdivided portion of taxpayer's property to one Snow for \$20,000.00, having a cost basis of \$23,636.93, leaving a profit of \$66,363.07. During the fiscal year taxpayer collected \$27,000.00, principal or 30% of the sale price and elected to report said sale on the Installment Basis - I.R.C. Sec. 44(b).

Taxpayer erroneously reported returnable income of \$19,908.22 from said sale as normal tax net income as item 14 in its Corporation Income and Declared Value Excess Profits Tax Return for its fiscal year ended Sept. 30, 1944.

Taxpayer failed to report returnable income of \$19,908.22 from said sale on Schedule C (Form 1120) Schedule of Capital Gains and Losses as net gain from sale or exchange of capital assets as item 12(a) form 1120. I.R.C. 117(a) (10) (A); and taxpayer further failed to calculate Alternative Taxes on Schedule C (form 1120) I.R.C. 117(c)(1)

(Attach letter-size sheets if space is not sufficient)

Sworn to and subscribed before me this

Signed PALOS VERDES CORPORATION

18 day of October, 1946  
Antoine Dush

By X Edwin C. Danchuk Pres.

The above claim for refund was prepared by the undersigned upon facts furnished by the taxpayer, which facts I believe to be true and correct.





## 42

I certify that an examination of the records of this office shows the following facts as to the assessment and payment of the tax: (Show, in the ninth column, by symbols "Pd," "Ab," or "Cr," the nature of each entry in the eighth column.)

Claim No.	ASSESSMENT LIST			ACCOUNT NO. OR		PAID, SHARED, OR CREDITED			
	List	Month	Year	Amount		Date	Amount		
				Page	Line				
10/1/43 - 9/30/44	IT	Feb.	1945	100160	\$ 17.066	36	12/15/44	\$ 4.266	59
							3/15/45	4.266	59
							6/5/45	4.266	59
							9/10/45	4.266	59
Refund claim \$5.467.88 Filed 5/9/45									
10/1/43 - 9/30/44	IT	1945	NC-9400062		None			None	
Total,				\$ 17.066	36	Total,	\$ 17.066	36	

I certify that the records of this office show the following facts as to the purchase of stamps:

[illegible]

Harry C. Weston  
Collector of Internal Revenue.

6th Calif  
(District)

## COMMITTEE ON CLAIMS

Amount claimed \$ \_\_\_\_\_  
Amount allowed \$ \_\_\_\_\_  
Amount rejected \$ \_\_\_\_\_

## INSTRUCTIONS

- ### INSTRUCTIONS
1. The claim must set forth in detail and under oath each ground upon which it is made, and facts sufficient to apprise the Commissioner of the exact basis thereof.
  2. The claim should be sworn to by the taxpayer, if possible. Whenever it is necessary to have the claim executed by an attorney or agent, on behalf of the taxpayer, an authenticated copy of the document specifically authorizing each agent or attorney to sign the claim on behalf of the taxpayer shall accompany the claim. The oath will be administered without charge by any collector, deputy collector, or internal revenue agent.
  3. If a return is filed by an individual and a refund claim is thereafter filed by a legal representative of the deceased, certified copy of the letters testamentary, letters of administration, or other similar evidence must be annexed to the claim, to show the authority of the executor, administrator, or other fiduciary by whom the claim is filed. If an executor, administrator, guardian, trustee, receiver, or other fiduciary files a return and thereafter a refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim if the amount refundable is not in excess of \$100.00, provided a statement is made on the claim showing that the return was filed by the fiduciary and that the latter is still acting.
  4. Where the taxpayer is a corporation, the claim will be signed with the corporate name, followed by the signature and title of an officer having authority to sign for the corporation.





Tax Calculation

Total normal tax and surtax (line 27, page 2, Form 1120).....	\$17,066.36
Alternative tax and surtax (line 29, Schedule C, Form 1120).....	11,598.48
Line 28, page 2, Form 1120 should have been .....	11,598.48
Lines 41 and 45, page 1, Form 1120 should have been.....	11,598.48
Overassessment .....	5,467.88

EXHIBIT 4

United States of America  
Treasury Department  
Washington

July 20, 1950

To All to Whom These Presents Shall Come,  
Greeting:

I certify that the annexed is a true copy of copy  
of letter dated August 4, 1949 to Palos Verdes Cor-  
poration, Rolling Hills via Lomita, California from  
E. I. McLarney, Commissioner, on file in this De-  
partment.

In Witness Whereof, I have hereunto set my  
hand, and caused the seal of the Treasury Depart-  
ment to be affixed, on the day and year first above  
written.

By direction of the Secretary of the Treasury:

[Seal]     /s/ A. L. DUNCAN,  
Assistant Head, Records Division Income Tax Unit,  
Bureau of Internal Revenue.

Aug. 4, 1949.

IT:Cl:CC:Rej

Palos Verdes Corporation,

Rural Route #1, Box 33,

Rolling Hills via Lomita, California.

In re: Claims for refund of \$5,467.88  
5,467.88

For the Year September 30, 1944

Gentlemen:

Reference is made to claim or claims, referred to above, filed by you for the refund of income taxes.

By a Certificate of Overassessment you were advised of an allowance on Schedule of Overassessments numbered IT-147279 for the taxable year referred to, and that to the extent your claim was disallowed, notice would be issued.

In accordance with the provisions of section 3772 (a)(2) of the Internal Revenue Code, this notice of disallowance of your claim or claims, to the extent not previously allowed, is hereby given by registered Mail.

By direction of the Commissioner:

Very truly yours,

(Signed) E. I. McLARNEY,  
Deputy Commissioner.

ejm

214M (Rev.)

## EXHIBIT 5

Year	Farm & Pasture		Rock & Earth
	Rentals	Crop Sales	Royalties
Calendar year 1931.....	\$10,960.00	\$27,891.03	\$ 9,007.92
Calendar year 1932.....	31,044.49	24,250.87	11,938.10
Calendar year 1933.....	26,799.91	28,428.27	15,521.61
Calendar year 1934.....	29,990.94	35,083.34	20,949.53
Fiscal year ended 9/30/35.....	26,866.13	25,944.11	12,869.38
Fiscal year ended 9/30/36.....	37,128.96	18,486.64	21,044.11
Fiscal year ended 9/30/37.....	35,112.51	18,809.50	49,475.66
Fiscal year ended 9/30/38.....	34,362.62	14,080.17	27,872.82
Fiscal year ended 9/30/39.....	33,388.06	16,189.40	24,158.24
Fiscal year ended 9/30/40.....	34,710.44	14,153.79	28,118.32
Fiscal year ended 9/30/41.....	34,422.85	15,794.75	28,287.08
Fiscal year ended 9/30/42.....	38,283.30	23,250.28	29,621.17
Fiscal year ended 9/30/43.....	8,018.60	42,393.31	36,523.35
Fiscal year ended 9/30/44.....	16,310.43	38,575.52	83,825.81

## EXHIBIT 6

## Income From Snow Parcel

Years	Snow Sold July 1944
1939-40 .....	\$ 2,267.20
1940-41 .....	1,213.75
1941-42 .....	1,798.27
1942-43 .....	1,410.67
1943-44 .....	3,981.08
1944-45 .....	....
<hr/>	
Total.....	\$10,670.97

## EXHIBIT 7

## Acreage Sales

Year Ended	Number Sales	Acres	Selling Price
9/30/39	1	15.920	\$ 7,950.00
9/30/40	1	10.235	10,000.00
9/30/41	8	306.828	85,218.93
9/30/42	11	381.244	230,688.78
9/30/43	9	90.649	35,916.09
9/30/44	35	954.426	250,493.67

## Subdivision Sales

Number Sales	Acres	Selling Price
13	74.456	\$64,927.71
6	24.326	22,271.01
20	63.876	37,252.50
3	12.278	4,511.22
1	4.055	2,950.00
18	153.718	55,100.00

## EXHIBIT 8

## GRANT DEED

Palos Verdes Corporation, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, and having its principal place of business in the County of Los Angeles and State of California, for and in consideration of the sum of Ten Dollars (\$10.00), the receipt whereof is hereby acknowledged, does hereby grant to Audrey O. Snow, a married woman, all that real property, described as follows, to wit:

Those portions of Lot "H" of the Rancho Los Palos Verdes, in the County of Los Angeles, State of California, allotted to Jotham Bixby by decree

of Partition in action "Bixby et al., vs. Bent et al.," Case No. 2373, in the District Court of the 17th Judicial District of said State, in and for said County of Los Angeles, and entered in Book 4, Page 57 of Judgments, in Superior Court of said County, described as follows:

Parcel No. 1.

Beginning at a point in the Westerly prolongation of the Southerly line of the land described in deed to Metropolitan Water District of Southern California, recorded in Book 16113, Page 12, Official Records of said County, distant thereon South  $89^{\circ} 59' 01''$  West 220.17 feet from the Southwesterly corner of said land; thence along said Westerly prolongation North  $89^{\circ} 59' 01''$  East 220.17 feet to said Southwesterly corner; thence along the Westerly line of said land North  $22^{\circ} 55' 55''$  West 819.95 feet to the Northwesterly corner of said land and a point in the Southerly line of Palos Verdes Drive North, 200 feet wide, as described in deed to said County of Los Angeles recorded in Book 12013, Page 277, of said Official Records; thence Westerly along the Southerly line of said Palos Verdes Drive North 895.50 feet to the most Easterly corner of the land described in deed to Abraham Falck Kittel and wife recorded in Book 18638, Page 377, of said Official Records; thence [41] along the Easterly line of said last mentioned land South  $28^{\circ} 51' 40''$  West 358.84 feet to the most Northerly corner of the land described in deed to

Abraham Falck Kittel and wife recorded in Book 20371, Page 73, of said Official Records; thence along the Easterly line of said last mentioned land South  $2^{\circ} 35' 30''$  East 310.14 feet; thence along the Southerly line of said last mentioned land South  $88^{\circ} 13' 20''$  West 188.09 feet to an angle point in the Southeasterly line of the land described in deed to said Abraham Falck Kittel and wife recorded in Book 18638, Page 377; thence along the Southeasterly line of the said last mentioned land following courses and distances: South  $75^{\circ} 33' 00''$  West 291.30 feet; South  $60^{\circ} 19' 33''$  West 530.38 feet to the most Southerly corner of said land and an angle point in the Southeasterly line of Rolling Hills as per map recorded in Book 201, Pages 29 to 35, of Maps in the office of the County Recorder of said County; thence along said last mentioned line the following courses and distances:

South  $32^{\circ} 09' 20''$  West 91.14 feet;

South  $76^{\circ} 25' 10''$  West 95.63 feet;

North  $83^{\circ} 29' 10''$  West 178.44 feet;

South  $66^{\circ} 11' 20''$  West 231.09 feet;

South  $75^{\circ} 16' 50''$  West 161.02 feet;

South  $37^{\circ} 00' 10''$  West 178.59 feet;

South  $55^{\circ} 43' 40''$  West 298.55 feet;

South  $32^{\circ} 36' 40''$  West 383.56 feet;

South  $67^{\circ} 13' 20''$  West 271.22 feet;

South  $7^{\circ} 41' 40''$  West 204.50 feet;

South  $49^{\circ} 10' 10''$  West 77.85 feet;

North  $45^{\circ} 27' 10''$  West 251.44 feet;

North  $57^{\circ} 30' 10''$  West 217.89 feet to the most Northerly corner of the land described in deed to



Jack V. Evans and wife recorded in Book 16862, Page 119, of said Official Records; thence [42] along the exterior boundaries of said last mentioned land the following courses and distances:

South  $2^{\circ} 43' 00''$  East 115.54 feet;

South  $27^{\circ} 28' 50''$  East 152.98 feet;

South  $38^{\circ} 16' 40''$  West 97.13 feet;

North  $72^{\circ} 33' 00''$  West 237.07 feet;

North  $12^{\circ} 22' 30''$  West 88.12 feet to the most Westerly corner of said last mentioned land and the Southeasterly line of said Rolling Hills; thence along said last mentioned Southeasterly line the following courses and distances:

South  $34^{\circ} 55' 30''$  West 63.99 feet;

South  $63^{\circ} 43' 20''$  West 263.33 feet;

South  $69^{\circ} 03' 40''$  West 350.80 feet;

South  $4^{\circ} 00' 00''$  West 423.68 feet;

South  $32^{\circ} 58' 40''$  West 370.54 feet;

South  $48^{\circ} 22' 55''$  West 113.15 feet;

North  $84^{\circ} 11' 15''$  West 222.67 feet;

South  $78^{\circ} 19' 30''$  West 240.07 feet;

South  $42^{\circ} 54' 25''$  West 285.18 feet;

South  $47^{\circ} 13' 10''$  West 527.25 feet;

South  $5^{\circ} 00' 00''$  East 217.61 feet to an angle point in said Southeasterly line which is marked by a 2" iron pipe marked RH 50;

Thence South  $39^{\circ} 05' 05''$  East 311.59 feet to a 2" iron pipe;

Thence North  $39^{\circ} 23' 50''$  East 181.11 feet to a 2" iron pipe;

Thence South  $77^{\circ} 14' 10''$  East 241.65 feet to a 2" iron pipe;

Thence North  $4^{\circ} 16' 20''$  West 208.41 feet to a 2" iron pipe;

Thence North  $9^{\circ} 10' 30''$  East 281.02 feet to a 2" iron pipe;

Thence North  $43^{\circ} 27' 55''$  East 177.68 feet to a 2" iron pipe;

Thence North  $88^{\circ} 09' 25''$  East 439.86 feet to a 2" iron pipe; [43]

Thence South  $39^{\circ} 58' 00''$  East 508.74 feet to a 2" iron pipe;

Thence South  $49^{\circ} 51' 00''$  East 447.88 feet to a 2" iron pipe;

Thence South  $25^{\circ} 02' 00''$  West 155.57 feet to a 2" iron pipe;

Thence South  $68^{\circ} 51' 35''$  West 254.86 feet to a 2" iron pipe;

Thence South  $42^{\circ} 16' 10''$  West 269.94 feet to a 2" iron pipe;

Thence South  $15^{\circ} 15' 30''$  East 154.86 feet to a 2" iron pipe;

Thence North  $88^{\circ} 11' 10''$  East 223.84 feet to a 2" iron pipe;

Thence North  $50^{\circ} 47' 50''$  East 151.66 feet to a 2" iron pipe;

Thence North  $58^{\circ} 42' 15''$  East 93.05 feet to a 2" iron pipe;

Thence North  $44^{\circ} 46' 45''$  East 267.44 feet to a 2" iron pipe;

Thence North  $5^{\circ} 23' 00''$  East 205.77 feet to a 2" iron pipe;

Thence North  $23^{\circ} 59' 05''$  West 224.77 feet to a 2" iron pipe;

Thence North  $54^{\circ} 50' 55''$  West 221.19 feet to a 2" iron pipe;

Thence North  $58^{\circ} 51' 40''$  West 109.76 feet to a 2" iron pipe;

Thence North  $29^{\circ} 42' 30''$  West 201.72 feet to a 2" iron pipe;

Thence North  $12^{\circ} 43' 15''$  West 249.74 feet to a 2" iron pipe;

Thence North  $19^{\circ} 10' 30''$  East 54.38 feet to a 2" iron pipe;

Thence North  $53^{\circ} 51' 15''$  East 227.13 feet to a 2" iron pipe;

Thence North  $73^{\circ} 16' 45''$  East 384.48 feet to a 2" iron pipe;

Thence South  $59^{\circ} 41' 50''$  East 389.00 feet to a 2" iron pipe;

Thence South  $58^{\circ} 37' 40''$  East 1153.98 feet to a 2" iron pipe;

Thence North  $88^{\circ} 19' 20''$  East 435.05 feet to a 2" iron pipe;

Thence South  $71^{\circ} 46' 30''$  East 1392.64 feet to a point in the Westerly line of Palos Verdes Drive East, 90 feet wide, as described in deed to said County of Los Angeles recorded in Book 2984, Page 43, Official Records of said County; thence along said last mentioned line the following courses and distances:

Northerly along a curve concave Easterly having a radius of 380.00 feet a radial line of which, passing through said last mentioned point, bears North  $81^{\circ} 09' 05''$  West, a distance of 146.42 feet to the Northerly terminus thereof; North  $30^{\circ} 55' 30''$  East

53.67 feet [44] to the beginning of a tangent curve concave Westerly and having a radius of 110.00 feet; Northerly along said last mentioned curve 175.28 feet; North  $60^{\circ} 22' 30''$  West 169.46 feet to the beginning of a tangent curve concave Easterly and having a radius of 175.00 feet; Northwesterly, Northerly and Northeasterly along said last mentioned curve 424.50 feet; North  $78^{\circ} 36' 30''$  East 70.90 feet to the beginning of a tangent curve concave Northwesterly and having a radius of 122.38 feet; Northeasterly and Northerly along said last mentioned curve 203.55 feet to the beginning of a tangent curve concave Southwesterly and having a radius of 265.00 feet; Northwesterly along said last mentioned curve 78.70 feet; North  $33^{\circ} 42' 30''$  West 430.62 feet to the beginning of a tangent curve concave Northeasterly and having a radius of 785.67 feet; Northwesterly along said last mentioned curve 225.11 feet to the beginning of a tangent of a tangent curve concave Easterly and having a radius of 270.87 feet; Northerly along said last mentioned curve 151.44 feet to the beginning of a tangent curve concave Southeasterly and having a radius of 205.00 feet; Northeasterly along said last mentioned curve 64.40 feet to a 2" iron pipe;

Thence North  $69^{\circ} 36' 25''$  West 170.57 feet to a 2" iron pipe;

Thence North  $5^{\circ} 36' 20''$  East 502.48 feet to a 2" iron pipe;

Thence North  $12^{\circ} 41' 05''$  West 245.38 feet to a 2" iron pipe;

Thence North  $11^{\circ} 11' 25''$  East 287.46 feet to a 2" iron pipe;

Thence North  $5^{\circ} 03' 00''$  West 196.01 feet to a 2" iron pipe;

Thence North  $71^{\circ} 13' 20''$  East 346.58 feet to a 2" iron pipe;

Thence North  $59^{\circ} 26' 00''$  East 356.06 feet to a 2" iron pipe;

Thence North  $58^{\circ} 14' 55''$  East 247.14 feet to a 2" iron pipe;

Thence North  $74^{\circ} 37' 30''$  East 133.19 feet to a 2" iron pipe;

Thence North  $73^{\circ} 38' 25''$  East 287.71 feet to a 2" iron pipe;

Thence North  $40^{\circ} 22' 55''$  East 259.56 feet to the point of beginning.

Excepting therefrom that portion described in deed to the Palos [45] Verdes Water Company, as Parcel No. 12, in Book 12886, Page 274, Official Records of said County and that portion described in deed recorded in Book 20675, Page 103, Official Records of said County.

Parcel No. 2.

Beginning at a point in the Easterly line of Palos Verdes Drive East, 90 feet wide, as described in deed to said County of Los Angeles recorded in Book 2984, Page 43, Official Records of said County, said point being the Northwestern corner of the land described in deed to Julia W. Benson, recorded in Book 19827, Page 288, of said Official Records;



thence along the Easterly and Northerly line of said Palos Verdes Drive East the following courses and distances: Northwesternly along the arc of a curve concave to the Southwest and having a radius of 225.00 feet a distance of 289.88 feet to the Westerly terminus thereof; North  $88^{\circ} 36' 30''$  West 97.95 feet to the beginning of a tangent curve concave Northeasterly and having a radius of 135.00 feet; Northwesternly along said last mentioned curve 215.95 feet to the true point of beginning of this description; thence South  $86^{\circ} 57' 23''$  East 682.71 feet;

Thence North  $55^{\circ} 47' 00''$  East 1209.31 feet;

Thence North  $77^{\circ} 22' 00''$  East 1188.78 feet;

Thence South  $77^{\circ} 44' 20''$  East 470.93 feet to the Easterly line of said Lot "H"; thence along said last mentioned line North  $0^{\circ} 19' 09''$  East 2357.30 feet; thence North  $86^{\circ} 29' 50''$  West 992.40 feet to the Southeasterly line of said Palos Verdes Drive East; thence along said last mentioned line the following courses and distances: Westerly along a curve therein concave Northerly and having a radius of 201.77 feet, a distance of 194.57 feet to the beginning of a tangent curve concave Northeasterly and having a radius of 592.46 feet; Northwesternly along said last mentioned curve 165.45 feet;

Thence South  $33^{\circ} 43' 30''$  West 256.90 feet to a 2" iron pipe;

Thence South  $71^{\circ} 13' 25''$  West 279.88 feet to a 2" iron pipe;

Thence South  $52^{\circ} 13' 50''$  West 436.96 feet to a 2" iron pipe; [46]



Thence North  $76^{\circ} 12' 15''$  West 160.09 feet to a point in the Easterly line of said Palos Verdes Drive East, said point being the Southerly terminus of a curve therein concave Westerly and having a radius of 1621.72 feet; thence along the Easterly line of said Palos Verdes Drive East the following courses and distances: South  $8^{\circ} 28' 00''$  West 356.71 feet to the beginning of a tangent curve concave Northwesterly and having a radius of 310.00 feet; Southeasterly along said curve 218.77 feet to the beginning of a tangent curve concave Northerly and having a radius of 195.06 feet; Westerly along said last mentioned curve 303.68 feet to the beginning of a tangent curve concave Northeasterly and having a radius of 326.45 feet; Northwesterly along said last mentioned curve 195.71 feet; North  $7^{\circ} 33' 00''$  West 143.84 feet to the beginning of a tangent curve concave Southeasterly and having a radius of 185.00 feet; Northwesterly along said last mentioned curve 147.56 feet to the beginning of a tangent curve concave Southwesterly and having a radius of 488.07 feet; Northwesterly along said last mentioned curve 188.04 feet; North  $75^{\circ} 19' 30''$  West 246.47 feet to the beginning of a tangent curve concave Northeasterly and having a radius of 725.00 feet; Northwesterly along said last mentioned curve 379.40 feet; North  $45^{\circ} 20' 30''$  West 131.60 feet to the beginning of a tangent curve concave Southeasterly and having a radius of 115.00 feet; Northwesterly and Southerly along said last mentioned curve 240.69 feet to the beginning of a

tangent curve concave Easterly and having a radius of 180.87 feet; Southerly along said last mentioned curve 101.12 feet to the beginning of a tangent curve concave Northeasterly and having a radius of 695.67 feet; Southeasterly along said last mentioned curve 199.33 feet; South  $33^{\circ} 42' 30''$  East 430.62 feet to the beginning of a tangent curve concave Southwesterly and having a radius of 355.00 feet; Southeasterly along said last mentioned curve 105.43 feet to the beginning of a tangent curve concave Northwesterly and having a radius of 212.38 feet; Southerly [47] and Southwesterly along said last mentioned curve 353.25 feet; South  $78^{\circ} 36' 30''$  West 70.90 feet to the beginning of a tangent curve concave Easterly and having a radius of 85.00 feet; Southwesterly and Southeasterly along said last mentioned curve 206.18 feet; South  $60^{\circ} 22' 30''$  East 169.46 feet to the beginning of a tangent curve concave Westerly and having a radius of 200.00 feet; Southeasterly and Southwesterly along said last mentioned curve 318.70 feet; South  $30^{\circ} 55' 30''$  West 53.67 feet to the beginning of a tangent curve concave Easterly and having a radius of 290.00 feet; Southerly along said last mentioned curve 148.13 feet to the beginning of a tangent curve concave Easterly and having a radius of 603.43 feet; Southerly along said last mentioned curve 269.97 feet to the beginning of a tangent curve concave Northeasterly and having a radius of 1136.61 feet; Southeasterly along said last mentioned curve 334.26 feet; South  $40^{\circ} 49' 30''$  East 276.14 feet to the beginning of a tangent curve con-

cave Westerly and having a radius of 275.00 feet; Southeasterly and Southwesterly along said last mentioned curve 427.89 feet; South 48° 19' 30" West 94.80 feet to the beginning of a tangent curve concave Easterly and having a radius of 135.00 feet; Southwesterly along said last mentioned curve 106.69 feet to the true point of beginning of this description.

Subject to:

1944-45 taxes.

Restrictions, reservations, covenants, conditions, easements, and rights of way of record.

The above described real property, and each part thereof, is conveyed by grantor subject to the following covenants, conditions, and restrictions, which shall be binding upon grantee, her successors and assigns, and shall exist in favor of grantor, its successors and assigns, and also in favor of the real property, and each part thereof, now owned by grantor adjoining and/or in the vicinity of the [48] real property conveyed hereby and in favor of grantees thereof, and each of them:

1. That there shall never be any mining, quarrying, excavating, or other operations of any kind permitted or maintained on said property for the removal of granite, rock or other earth materials, excepting only excavations for house sites and grading for road or other subdivision purposes.

2. All of the material from excavations for house sites, road grading, or subdivision purposes must be

used and disposed of on the property herein granted and not removed therefrom without permission of grantor.

3. No decomposed granite, rock, or other earth materials of any kind shall ever be hauled off, sold, or removed from said property without the written consent of grantor.

In Witness Whereof, Palos Verdes Corporation has this . . . . day of July, 1944, caused its corporate name and seal to be affixed by its officers thereunto duly authorized.

PALOS VERDES CORPORA-  
TION,

By.....,  
Vice President,

By.....,  
Assistant Secretary. [49]

State of California,  
County of Los Angeles—ss.

On this . . . . day of . . . . ., 1944, before me, . . . . ., a Notary Public in and for said County and State, personally appeared A. E. Hanson, known to me to be the Vice-President, and Elgia V. Hurlburt, known to me to be the Assistant Secretary of Palos Verdes Corporation, the corporation that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of the corporation

herein named, and acknowledged to me that such corporation executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

.....,

Notary Public in and for said  
County and State. [50]

## EXHIBIT 9

### Rancho Palos Verdes Schedule of Real Property Taxes

Year	Taxes
1935-36 .....	\$ 53,008.53
1936-37 .....	26,951.54
1937-38 .....	62,466.52
1938-39 .....	67,452.95
1939-40 .....	63,061.70
1940-41 .....	56,399.19
1941-42 .....	50,451.93
1942-43 .....	41,643.70
	<hr/>
	\$421,436.06

[Endorsed]: Filed May 1, 1951. [51]

At a stated term, to wit: The February Term. A.D., 1951, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Thursday, the 3rd day of May, in the year of our Lord one thousand nine hundred and fifty-one.

Present: The Honorable Wm. M. Byrne,  
District Judge.

[Title of Cause.]

#### MINUTE ORDER, MAY 3, 1951

This cause having heretofore been submitted after trial on May 2, 1951, the Court now orders judgment for defendant and directs counsel for Gov't to prepare findings of fact, conclusions of law, and judgment accordingly.

Counsel notified.

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[Title of District Court and Cause.]

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The within cause came on regularly to be heard on May 1, 1951, before the Honorable William M. Byrne, United States District Judge sitting without a jury. The plaintiff appeared by its attorneys Riley & Hall and William D. Behnke, and defendant appeared by its attorneys, Ernest A. Tolin, United



States Attorney for the Southern District of California, E. H. Mitchell and Edward R. McHale, Assistants United States Attorney for said District, and Eugene Harpole and Frank W. Mahoney, Special Attorneys for the Bureau of Internal Revenue, and the case having been submitted on a Stipulation of Facts and oral and written evidence and argument of counsel, and the Court, being duly advised, now makes its Findings of Fact and Conclusions of Law as follows:

### Findings of Fact

#### I.

This is an action for refund of income tax arising under the provisions of the Internal Revenue Code of the United States. Harry C. [52] Westover, the Collector of Internal Revenue, Sixth District of California, to whom the income tax herein involved was paid in his official capacity as such Collector was not in office at the time of filing of this action, to wit, April 11, 1950.

#### II.

That on December 15, 1944, plaintiff filed with the Collector of Internal Revenue, Sixth District of California, its Corporation Income and Declared Value Excess Profits Tax Return for the period commencing October 1, 1943, and ending September 30, 1944, and paid to said Collector the sum of \$17,066.36.

#### III.

In the month of July, 1944, plaintiff sold to one Snow an unsubdivided portion of plaintiff's real

property in the County of Los Angeles, State of California, for the sum of \$90,000.00, consisting of 422.56 acres. Said real property has a cost basis to plaintiff in the sum of \$23,636.93, resulting in a profit or gain of \$66,363.07. During the fiscal year of plaintiff commencing October 1, 1943, and ending September 30, 1944, plaintiff received from said Snow on account of said purchase price of \$90,000.00, the sum of \$27,000.00, and elected pursuant to Section 44 (B) of the Internal Revenue Code to report for income tax purposes said sale upon the installment basis. Said real property was contiguous to the subdivision developed by plaintiff. Said real property sold to Snow was acquired by the plaintiff as part of said 12,245 acres of land transferred to plaintiff as of January 1, 1926, in exchange for its common stock. Said real property has been owned and held by plaintiff since said date, to wit: January 1, 1926.

#### IV.

That plaintiff filed its claim for refund in the amount of \$5,467.88, on May 9, 1945, and again on October 30, 1946, alleging that the income from the sale of property to one Snow was a capital gain and not ordinary income as originally reported by plaintiff. By letter dated August 4, 1949, the Commissioner of Internal Revenue disallowed said claim for refund. [53]

#### V.

That plaintiff is a corporation organized November 27, 1925, under the laws of the state of Delaware

with its principal office and place of business located in the City of Wilmington, County of Newcastle, Delaware. Since 1926, plaintiff has transacted and is doing business in the County of Los Angeles, State of California. Plaintiff took over from Palos Verdes Syndicate as of January 1, 1926, approximately 12,245 acres of land in the County of Los Angeles, State of California, with other assets, giving in exchange therefor 54,000 shares of its common stock, having an aggregate par value of \$5,400,000, issued pro rata to the members of the Syndicate as their interests appeared. Said land was known as "Rancho Palos Verdes."

## VI.

That said "Rancho Palos Verdes" originally comprised approximately 16,004 acres of unimproved real property in the County of Los Angeles. It was acquired by a group of persons known as the Palos Verdes Syndicate in the year 1913. It consists of very little level land. It rises from the ocean to an elevation of some 1400 feet in a matter of possibly two or two and one-half miles, and slopes down again to the plains on the inland side. Some of it is suitable for farming, and some of it is made of arroyos and precipitous parcels that are not available for farming. After acquisition, the Palos Verdes Syndicate appointed a general manager to operate and manage the Rancho, and it engaged in incidental farming activities. After holding the land for a period of ten years, the Palos Verdes Syndicate decided to

sell the whole parcel, and entered into an agreement to sell in the year 1923. The whole sale was not consummated by reason of the fact that the purchaser was unable to raise sufficient monies to buy the whole rancho. Two portions of the rancho were actually sold, to wit: 3000 acres in the northerly and westerly edges of the Rancho, and 200 acres on the southerly and easterly edges of the Rancho, and this land was deeded to the Bank of Italy, in trust, for subdivision and development purposes. Said portions were later subdivided [54] and developed and handled by the Bank of Italy and became known as "Palos Verdes Estates" and "Miraleste," respectively. Neither the Palos Verdes Corporation nor the Palos Verdes Syndicate had any further interest therein from the date of sale.

## VII.

That the corporation leased out for farming purposes that part of its land that was suitable therefor, throughout the years in question.

## VIII.

That the corporation leased some portions of its land for quarrying rock and mining diatomaceous earth and realized royalties therefrom. That the sale of decomposed granite was in such a manner that it would not interfere with the later subdivision of the property.

## IX.

That the income from farming operations and from rock and earth royalties was insufficient to pay

the county real estate taxes; and the taxes for the years 1935 to 1943, were unpaid at the date of the sale involved in this action.

### X.

That the plaintiff subdivided part of its land and offered the same for home sites and called said section "Rolling Hills"; and that prior to the actual subdivision of this parcel within the meaning of state and county laws, the plaintiff sold portions of this section as acreage for residential purposes.

### XI.

That the affairs of the corporation were handled by a managing vice-president, and said vice-president rendered an annual report to the shareholders.

### XII.

That said annual reports indicated that the only financial solution for plaintiff was to sell its lands, as farming was unprofitable; and that from the year 1935, to date the plaintiff attempted to and did sell all the property which could be sold. [55]

### XIII.

That plaintiff caused to be distributed to the public certain leaflets or brochures describing the land it held; that part of these brochures were confined to that section known as "Rolling Hills Subdivision," while other leaflets described the balance of the unsubdivided property of plaintiff known as "acreage." Leaflets and brochures relating to the



whole ranch were distributed not earlier than the year 1937.

#### XIV.

That in the year 1940, 10,000 postcards were mailed to the public in Los Angeles offering to sell land at \$185.00 per acre. These cards referred to certain land on the northern periphery of the Rancho; however plaintiff would have sold any other portion of its land that could have been made the subject of an advantageous sale.

#### XV.

That between 1940 and 1944, the plaintiff made varied and vigorous efforts to dispose of all its real estate holdings to various agencies of the state and Federal government and caused to be made plats showing the area laid out for park purposes.

#### XVI.

That plaintiff sold during the fiscal year ended September 30, 1944, both subdivided land and unsubdivided portions of its property, and that sales of its unsubdivided portions greatly exceeded in number its subdivision sales.

#### XVII.

That during the fiscal year ended September 30, 1944, the plaintiff in addition to the Snow sale made 34 other sales of unsubdivided land totalling 531.859 acres and reported these sales as ordinary income.



XVIII.

That all sales of unsubdivided real property were subject to restrictions in the deed preventing use of the property except for residential purposes.

XIX.

That although plaintiff made 34 additional sales of unsubdivided [56] property in the fiscal year ending September 30, 1944, which were reported as ordinary income, it has not at any time contended that this acreage represented a capital asset.

XX.

That between the period from September 30, 1939, to September 30, 1944, the sales of unsubdivided lands increased and outnumbered the sales of subdivided property.

XXI.

That the plaintiff in leasing its land for farming purposes, reserved the right to enter the leased portion for the construction of roads, pipe lines and power lines.

XXII.

That the plaintiff was willing to sell all or any portion of its unsubdivided properties, that could be made the subject of an advantageous sale.

XXIII.

That the plaintiff in its Corporation Income & Declared Value Excess Profits Tax return for the fiscal year ending September 30, 1944, stated that it was in the real estate business.

## XXIV.

That the plaintiff was engaged in the real estate business.

## XXV.

That the plaintiff was continuously engaged in the sale of its subdivided and unsubdivided portions of its property.

## XXVI.

That the plaintiff rented the property for farm purposes to realize what income it could, until the land could be sold.

## Conclusions of Law

## I.

That the plaintiff advertised all of its property for sale to the general public and was willing at all times to sell a portion of all of [57] its unsubdivided realty.

## II.

That the parcel of land sold to one Snow in July, 1944, was not a capital asset nor an asset used in plaintiff's trade or business, but was held primarily for sale to customers in the ordinary course of business.

It Is Therefore Ordered that defendant is entitled to a judgment against plaintiff with costs of suit assessed against plaintiff.

Dated this 10th day of July, 1951.

/s/ WM. M. BYRNE,

United States District Judge.

Approved as to Form:

RILEY & HALL,

By /s/ WILLIAM D. BEHNKE,  
Attorneys for Plaintiff.

[Endorsed]: Filed July 10, 1951. [58]

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The United States District Court Southern District  
of California, Central Division

No. 11,417-WB

PALOS VERDES CORPORATION, a Corpora-  
tion,

Plaintiff.

vs.

UNITED STATES OF AMERICA,

Defendant.

### JUDGMENT

The within cause came on regularly to be heard on May 1, 1951, in the above-entitled court, the Honorable William M. Byrne, United States District Judge, presiding without a jury. The plaintiff appeared by its attorneyes Riley & Hall and William D. Behnke, and the defendant appeared by its attorneys, Ernest A. Tolin, United States Attorney for the Southern District of California, E. H. Mitchell and Edward R. McHale, Assistants United States Attorney for said District, and Eugene Harpole and Frank W. Mahoney, Special Attorneys

for the Bureau of Internal Revenue. The Court having heard the facts and argument presented and having heretofore made and caused to be filed herein its Findings of Fact and Conclusions of Law,

Now, Therefore, It Is Ordered, Adjudged and Decreed that defendants have and recover judgment from the plaintiff and that costs [59] of suit in favor of defendant and against plaintiff be taxed by the Clerk of this Court in the sum of \$.....

Dated this 10th day of July, 1951.

/s/ WM. M. BYRNE,

United States District Judge.

Approved as to Form:

RILEY & HALL,

By /s/ WM. D. BEHNKE,

Attorneys for Plaintiff.

[Endorsed]: Filed July 10, 1951.

Docketed and entered July 10, 1951. [60]

[Title of District Court and Cause.]

NOTICE OF APPEAL

To the Above-Named Defendant, The United States of America, and Its Attorneys, Ernest A. Tolin, United States Attorney, E. H. Mitchell and Edward R. McHale, Assistant U. S. Attorneys, and Eugene Harpole and Frank W. Mahoney, Special Attorneys, Bureau of Internal Revenue, 600 Federal Building, Los Angeles 12, California:

You, and Each of You, are Hereby Advised that the Plaintiff, Palos Verdes Corporation, a Corporation, Plaintiff in the above-entitled action, does hereby appeal from the judgment entered July 10, 1951, in the above-entitled action.

Dated this 18th day of July, 1951.

RILEY AND HALL,

By /s/ MARSHALL D. HALL,  
Attorneys for Plaintiff.

[Endorsed]: Filed July 28, 1951. [61]

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[Title of District Court and Cause.]

DESIGNATION OF RECORD ON APPEAL

Pursuant to and in accordance with Rule 75, Federal Rules of Civil Procedure, the plaintiff and appellant in the above-entitled matter hereby designates as the Record on Appeal to the Court

of Appeals, Ninth Circuit, the complete record and all proceedings and evidence in the above-entitled action, consisting of the following:

1. Plaintiff's Complaint on file herein;
2. Defendant's Answer on file herein;
3. Stipulation of Facts on file herein, together with all exhibits attached thereto;
4. Reporter's Transcript of Proceedings on file herein;
5. Plaintiff's exhibits, consisting of numbers one (1) to ten (10) inclusive;
6. Defendant's exhibits, consisting of A1, A2, A3, A4, B, C, D, [62] E, F, G, H, I, J, K and L;
7. Findings of Fact and Conclusions of Law on file herein;
8. Judgment on file herein;
9. Notice of Appeal on file herein;
10. Plaintiff's and Appellant's Designation of Record on Appeal.

Respectfully Submitted:

RILEY AND HALL,

By /s/ WILLIAM D. BEHNKE,  
Attorneys for Plaintiff.

Affidavit of Service by Mail attached.

[Endorsed]: Filed Aug. 16, 1951. [63]



[Title of District Court and Cause.]

COUNTER DESIGNATION OF CONTENTS  
OF RECORD ON APPEAL

Comes Now the defendant-appellee United States of America and hereby designates in addition to those portions of the record and proceeding in the above-entitled case designated by plaintiff-appellant herein, the following portions of the record and proceeding to be contained in the record on appeal of this case to the United States Court of Appeals for the Ninth Circuit:

1. The Minute Order of the Court dated May 3, 1951.

2. Defendant's Exhibit A.

Dated August 22, 1951.

ERNEST A. TOLIN,

United States Attorney,

E. H. MITCHELL, and

EDWARD R. McHALE,

Assistant U. S. Attorneys,

EUGENE HARPOLE, and

FRANK W. MAHONEY,

Special Attorneys, Bureau of  
Internal Revenue,

By /s/ EUGENE HARPOLE,

Attorneys for Defendant-Appellee, United States  
of America.

Affidavit of Service by Mail attached.

[Endorsed]: Filed Aug. 22, 1951. [65]

[Title of District Court and Cause.]

**MOTION FOR ORDER, AND ORDER EXTENDING TIME FOR FILING THE RECORD ON APPEAL AND DOCKETING THE APPEAL**

Plaintiff and appellant in the above-entitled matter moves for an order extending the time for filing the Record on Appeal and docketing the appeal to a time ninety (90) days from the date of filing the Notice of Appeal upon the following grounds:

1. The time prescribed under Rule 72(g) F.R.C.P., for filing the Record on Appeal and docketing the appeal will expire in the above-entitled matter forty (40) days from July 28, 1951, to wit: September 6, 1951.

2. It appears that the Clerk will or may be unable to prepare the Record on Appeal in time for filing a docketing prior to September 6, 1951.

3. Under the provisions of Rule 72(g) F.R.C.P., the District Court in its discretion, with or without motion or notice, may extend the time for filing of the record and docketing of the appeal if the order for extension is made prior to the expiration of the original period prescribed for the filing of the record and docketing of the appeal provided that the time shall not be [67] extended to a date more than

ninety (90) days from the date of filing the first Notice of Appeal.

Respectfully submitted,

RILEY AND HALL,

By /s/ WILLIAM D. BEHNKE,  
Attorneys for Plaintiff.

ORDER

Good cause being shown, it is hereby ordered that the time for the filing of the record and docketing of the appeal in the above-entitled matter be, and the same is hereby extended to Oct. 26, 1951.

Dated August 29, 1951.

/s/ JAMES M. CARTER,  
District Judge.

Presented by :

/s/ WILLIAM D. BEHNKE.

[Endorsed]: Filed Aug. 29, 1951.

United States District Court for the Southern  
District of California, Central Division

No. 11417-WB-Civil

PALOS VERDES CORPORATION, a Corpora-  
tion,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

REPORTER'S TRANSCRIPT OF  
PROCEEDINGS

May 1, 1951, 10:15 A.M.

Before: Honorable Wm. M. Byrne,  
Judge Presiding.

Appearances:

RILEY AND HALL, by  
WILLIAM D. BEHNKE, ESQ.,

On behalf of Plaintiff.

ERNEST A. TOLIN,  
United States Attorney,

E. H. MITCHELL, and

EDWARD M. McHALE,

Assistant United States Attorneys,

EUGENE HARPOLE, and

FRANK W. MAHONEY,

Special Attorneys, Bureau of Internal  
Revenue, by

FRANK W. MAHONEY, ESQ.,

On Behalf of Defendant.

Deputy Clerk Drew: Case No. 11417-WH-Civil,  
Palos Verdes Corporation vs. United States of  
America, for trial.

Mr. Behnke: We are ready for the Plaintiff,  
your Honor.

Mr. Mahoney: We are ready for the Defendant,  
your Honor.

The Court: You may proceed.

Mr. Behnke: Your Honor, we have filed a Stipu-  
lation of Facts which I think has been presented  
to your Honor.

The Court: It was just filed this morning.

Mr. Behnke: Yes, we filed a Stipulation of  
Facts. Would you want time to look those over?

The Court: Yes, if you will just let me glance  
through them.

(A short intermission follows while the Court  
examines said document.)

The Court: All right, you may proceed.

Mr. Behnke: Thank you, your Honor. Mr.  
Benedict, take the stand, please.

## HARRY E. BENEDICT

called as a witness herein on behalf of the Plaintiff,  
being first duly sworn, testified as follows, to wit:

## Direct Examination

By Mr. Behnke:

Q. (By Deputy Clerk Drew): Your full name, please? [2\*]

A. Harry E. Benedict.

Q. (By Mr. Behnke): Mr. Benedict, where do you reside?

A. Scarborough, New York.

Q. Do you also have a home here in California?

A. Yes, sir.

Q. And where is that located?

A. On Portuguese Bend, on the Palos Verdes Ranch.

Q. And are you now Chairman of the Board of Directors of the Palos Verdes Corporation?

A. Yes, sir.

Q. Have you been a member of the Board of Directors for a considerable period of time?

A. Since the Corporation was organized.

Q. That is since approximately 1926?

A. Yes, sir.

Q. And have you served in other capacities besides the Chairman of the Board of Directors?

A. I believe I at one time held the office of Treasurer or I was President for a time.

Q. And have you taken an active part in the affairs and operations of the Corporation?

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\* Page numbering appearing at top of page of original Reporter's Transcript of Record.



(Testimony of Harry E. Benedict.)

A. Yes, sir.

Q. And have you regularly attended the meetings of the Boards of Directors?

A. Substantially all of them. [3]

Q. Did you know Mr. Frank A. Vanderlip, Sr.?

A. Yes, sir.

Q. When did you first know him?

A. Oh, I would say in 1916.

Q. And did you become associated with him in a business way?      A. I did.

Q. Did you continue this association during Mr. Vanderlip's life?      A. I did.

Q. When did Mr. Vanderlip die?

A. In 1937.

Q. At that time was Mr. Vanderlip, Sr., president of the Palos Verdes Corporation?

A. I believe he was, yes, sir.

Q. Had he served in that capacity for a number of years?      A. Yes, sir.

Q. Are you familiar, through your business association with Mr. Vanderlip, with the purchase of the Rancho Palos Verdes?

A. The purchase was made before my association with him.

Q. First, let me ask you: Are there any members of the original Palos Verdes syndicate now alive?      A. I believe one is. [4]

Q. Is that Mr. Andrew Mills?      A. Yes, sir.

Q. And he is very aged, is he not?

A. Well, he is perhaps in his middle or late seventies, I should think.

(Testimony of Harry E. Benedict.)

Q. And he is out of this State?

A. Yes. He is in New York.

Q. Regarding the first Palos Verdes syndicate, who were the members of the Palos Verdes syndicate, originally?

A. I don't know that I can, without reference to records, name all of them. I could name the leading ones very easily.

Mr. Behnke: I have here, your Honor, a document which I would like the witness to identify. Do you want to see this? (Mr. Behnke shows document to Mr. Mahoney.)

Mr. Mahoney: Yes.

Mr. Behnke: I have here a document——

Mr. Mahoney: Just a moment, Mr. Behnke. Your Honor, it would appear that this line of questioning at the present time is immaterial to the question of liability of the Corporation.

Mr. Behnke: Well, your Honor, the purpose of this testimony is to show that there is a continuity of beneficial ownership in this land from its inception right down to the present time; that the same people or their heirs continued to hold the interests, regardless of the [5] form in which the real property was held. It is for that purpose that I want to show that the whole history of this Ranch is one continuous history relating to the present taxable year.

The Court: What is the materiality of that, counsel?

Mr. Behnke: I would like to show, your Honor.

(Testimony of Harry E. Benedict.)

that this land was originally acquired by the syndicate as an investment and that it has continued down through the years to be an investment, and that the syndicate transferred to the Corporation, in 1926, this land and continued on; and on the historical background I am going to try to be as brief as possible, but I do think it is material, your Honor.

The Court: I understand that the Plaintiff acquired the land in 1927 from the members of the syndicate.

Mr. Behnke: In 1926, your Honor.

The Court: In 1926, from the members of the syndicate; and who the members of the syndicate were or the purpose for which the members of the syndicate held the land is immaterial.

Mr. Behnke: The formation of the Corporation would be very material evidence of the purposes of the formation of the Corporation with respect to this land.

The Court: That is right, and you may go into the matter of the incorporation and pick it up from the time the Corporation came into existence. [6]

Mr. Behnke: Very well, your Honor. May I just ask one question about the date of acquisition by the syndicate:

In what year was the property acquired by the syndicate, Mr. Benedict?

A. Well, the records indicate I believe it was in the year 1913.

(Testimony of Harry E. Benedict.)

Q. And was this property subsequently sold by the syndicate?

A. Well, it was transferred to the Palos Verdes Corporation in 1926—if I understand your question correctly.

Q. Prior to that time, was there any portion of the Rancho Palos Verdes sold? A. Yes.

Q. In what year did that sale occur?

A. In 1923, I believe.

Q. To whom was that sale made?

A. I believe it was made in the name of a trust. I am familiar with the transaction, but I believe it was sold to a trust.

Mr. Behnke: For identification purposes, I wonder if this could be marked Plaintiff's Exhibit No. 1.

(Whereupon a map was marked as Plaintiff's Exhibit No. 1 for identification.)

Deputy Clerk Drew: That is Exhibit No. 1, [7] for identification.

Q. (By Mr. Behnke): I have a map, Mr. Benedict, which purports to be of the Palos Verdes Estates. Could you delineate the portion which composed the whole Ranch, at this time? This map I think is dated 1924.

A. The boundaries of the Ranch held by the syndicate began here in the city of Los Angeles and came out here (indicating on Exhibit No. 1), down striking the ocean, continuing around the

(Testimony of Harry E. Benedict.)

ocean and then following up here (indicating on said map).

Q. Was there an agreement to sell the whole parcel by the syndicate in 1923? A. Yes, sir.

Q. Was the whole sale consummated?

A. No, sir.

Q. What portions of the ranch were left in the syndicate after the transaction?

A. Well, substantially  $1/5$  of the original total area was sold.

Q. And could you point out on the map here what portions were sold and the amount of the sale?

A. This portion outside of that line (indicating on map) was sold, and 200 acres on the east border was sold, making a total of 3200 acres.

Q. And this was later subdivided, was it not? [8] (Mr. Behnke indicates on map, Exhibit No. 1.)

A. Yes, sir.

Q. And became known as Palos Verdes Estates?

A. Yes.

Q. And this became known as Miraleste (indicating on said map, Exhibit No. 1)?

A. Miraleste.

Q. And has either the Corporation or the syndicate ever had any further interest in these two parcels from the date of sale? A. No, sir.

Q. And what was the ultimate price that was paid for that 3200 acres?

The Court: Counsel, may I interrupt for a minute. I think I should call attention of counsel to this matter: I don't think it makes any difference,

(Testimony of Harry E. Benedict.)

but if counsel feel that it does, I wish you would so indicate. I take it, from the trial briefs, that the particular portions that you are referring to now have nothing to do directly with the matter in controversy here. However, I think that this portion which you are referring to at the present time was deeded to the Bank of Italy, as Trustee, and that it was a subdivision that was handled by the Bank of Italy. About twenty-five years ago I was an assistant trust officer of the Bank of Italy, which had something to do with this subdivision. Now, as I understand, the [9] issues in this case have nothing at all to do with that and your inquiries here now are merely of a preliminary nature.

Mr. Behnke: That is correct.

The Court: But, if counsel feel that the facts as I have stated them in any way are prejudicial, I wish you would so indicate, so we can dispose of this case in another manner.

Mr. Behnke: I have no objection.

Mr. Mahoney: The defendant has no objection, your Honor.

The Court: It is true that that piece, that property was deeded to the Bank of Italy?

Mr. Behnke: It is, your Honor.

The Court: And the subdivision was handled by the Bank of Italy——

Mr. Behnke: It is, your Honor.

The Court: That is the same property that I have reference to, but it is not involved at all in this case?



(Testimony of Harry E. Benedict.)

Mr. Behnke: No; it is not. It is merely a preliminary matter, as your Honor has indicated.

Q. Mr. Benedict, can you identify this photograph? A. Yes, sir.

Q. Could you tell me when that photograph was taken? [10]

A. I don't now the exact date, but it was around 1945, I should think.

Q. In your opinion, is that a faithful and correct representation of the Rancho Palos Verdes as at that time?

A. It is a photograph. I should assume it would have to be.

Mr. Behnke: I would like to have this marked as Plaintiff's Exhibit No. 2 and introduced into evidence.

The Court: It will be so marked and received.

(Said photograph, so offered and received in evidence, was marked as Plaintiff's Exhibit No. 2.)

Q. (By Mr. Behnke): Mr. Benedict, the Palos Verdes syndicate, the owners of this land, formed a corporation in 1925, I believe it was. Could you tell me the reasons for the formation of the Corporation at that time?

A. Well, as I knew them, they were that the property had been held in a syndicate which was a very loose form particularly as to the administration of the property and, in the meantime, since the syndicate had been formed, one or more of the

(Testimony of Harry E. Benedict.)

original syndicate members had died; whereupon estates were involved in the administration, and it had seemed to me at that time, [11] and in which Mr. Vanderlip concurred and approved, that the matter should be incorporated for the usual purposes of incorporating a matter of that kind.

Q. And was the remaining portions of the Rancho transferred to the Corporation?

A. Yes, sir.

Q. And stock issued in connection therewith?

A. Yes, sir.

Q. After the formation of this corporation, what were its activities?

A. Well, there were no changes in the activities upon incorporation. It continued to act as the holder of title. It continued to farm the property. There were relatively few other activities at that time than farming.

Q. Was there a manager appointed?

A. Yes, sir.

Q. Who was that manager?

A. Mr. J. Lawyer.

Q. What were his duties as manager?

A. He made contacts with farmers, sharecroppers, and some cash farming rentals. He looked after the payment of taxes, in so far as probably discussions with the assessors as to valuations, and matters of that kind. His duties were not very complicated at that [12] time.

Q. What was the character of the land that the Corporation acquired?

(Testimony of Harry E. Benedict.)

A. The first comment would be that there was very little level land. It rises from the ocean to an elevation of some fourteen hundred feet, in a matter of possibly two or two and a half miles and slopes down again to the plains on the inland side. Some of it is suitable for farming and some of it is made up of arroyos and precipitous parcels that are not available for farming.

Q. And over the period of years the Corporation has derived income from the farming activities?

A. Yes, sir.

Q. And from the development of its mineral sources? A. Yes, sir.

Q. And for those amounts, your Honor, we do not have the corporate history, but we do have it for the years of 1931 down through the taxable year involved. That is Exhibit 5.

In this matter of the development of its natural resources, what natural resources were found upon the Ranch?

A. Diatomaceous earth was one of the important natural resources, and contracts or agreements were entered into with operators mining diatomaceous earth a great many years back. At one time, mud or silt for use in oil well [13] drilling was a modest enterprise. Then, in recent years the quarrying of rock has become an important and substantial activity.

Q. Was this Corporation formed for the purpose of subdividing and developing this real property?

(Testimony of Harry E. Benedict.)

A. No. That was not in the minds of any of us, with which I am familiar.

Mr. Mahoney: Just a moment, Mr. Benedict. I would like to object to that question, on the ground that the intent of incorporation can be ascertained from the Articles of Incorporation and not from the conclusion of the witness.

The Court: Yes.

Mr. Behnke: It is not the sole evidence, though, as to intent, your Honor.

The Court: The purpose of the formation of the Corporation must be set out in your Articles of Incorporation, so you must have them set out in your Articles of Incorporation. That is the best evidence as to the purpose. Now, of course, as to what actually happened, you can introduce evidence as to that.

Mr. Behnke: Yes.

The Court (Continuing): As to what actually occurred. But the purpose of the formation of the Corporation should be set out in your Articles of Incorporation.

Mr. Mahoney: Can we have the answer to that stricken, [14] your Honor?

The Court: What is that?

Mr. Mahoney: Can we have the answer to the last question stricken, your Honor?

The Court: Yes.

(Mr. Behnke shows document to Mr. Mahoney.)

(Testimony of Harry E. Benedict.)

Q. (By Mr. Behnke): I have here, Mr. Benedict, a document which purports to be the Certificate of Incorporation of the Palos Verdes Corporation. Will you examine this document?

The Court: I would imagine that counsel has perhaps seen that and investigated it.

Mr. Behnke: Yes.

The Court: And if it is the Articles——

Mr. Behnke: We can stipulate to it.

The Court: You can stipulate to that and save some time.

Mr. Mahoney: They are substantially the same or they appear to be the same as filed with the County Clerk. We will stipulate that they may be introduced as the Articles of Incorporation, of the Palos Verdes Corporation.

Mr. Behnke: Thank you. Would you mark this as Plaintiff's Exhibit No. 3.

The Court: Are you offering it in evidence?

Mr. Behnke: Yes. I am offering it in evidence, your Honor. [15]

The Court: It may be received.

(Said document, so offered and received in evidence, was marked Plaintiff's Exhibit No. 3.)

(Testimony of Harry E. Benedict.)

### PLAINTIFF'S EXHIBIT No. 3

#### Certificate of Incorporation of Palos Verdes Corporation

First: The name of the Corporation is Palos Verdes Corporation.

Second: The principal office and place of business of the Corporation in the State of Delaware is to be located at No. 7 West Tenth Street, in the City of Wilmington, County of Newcastle; and the name of its resident agent in charge thereof is The Corporation Trust Company of America, No. 7 West Tenth Street, Wilmington, Delaware.

Third: The nature of the business and the objects and purposes to be transacted, promoted and carried on are:

To buy, acquire, hold, own, maintain, sell, convey and generally deal in, manage, lease, mortgage, encumber, exchange and otherwise dispose of real estate and real property of all kinds or any interest or right therein; to carry on the business of developing and improving real property; to lay out for public and private use roads, streets, avenues, or highways, upon or through its lands; to extend, continue or connect such roads, streets, avenues or highways upon or through other real property to be acquired; to lay out and establish such roads, streets, avenues or highways, and the extensions, continuations or connections thereof, and to construct drains or sewers, and such bridges or culverts



(Testimony of Harry E. Benedict.)

as may be necessary to maintain the grades of, or for the extension, continuation or connection of the roads, streets, avenues or highways so laid out; to connect such roads, streets, avenues or highways belonging to any other corporation or person; to act as brokers, agents and adjusters in the business of any kind or class of insurance in any or all of its branches, including marine insurance, fire insurance, life insurance, accident and health insurance, casualty insurance, workmen's compensation insurance, fidelity insurance, insurance against loss by defaults, whether willful or otherwise, in the fulfillment of contracts, insurance against loss because of fraud, theft, robbery or any kind of misconduct, rent insurance; to produce, drill for, purchase, store, refine and deal in petroleum and its products at both wholesale and retail, and to manufacture all or any of the products of petroleum, and packages for holding the same; to acquire water by purchase, development or otherwise. construct reservoirs or water towers, erect pumping machinery, lay water mains, pipes, gates, valves and hydrants, furnish and sell water to manufactories, private corporations and individuals for fire protection, manufacturing and domestic use, and collect payment or rentals for the same; to manufacture and supply gas and electricity for lighting streets, roads, lanes, alleys, parks and public and private buildings.

Received in evidence May 1, 1951.

(Testimony of Harry E. Benedict.)

Mr. Behnke: I don't think I offered Plaintiff's Exhibit No. 1 in evidence. May I offer that in evidence, too.

The Court: It will be received.

(Said map was thereupon received in evidence by the Court, as aforesaid, and marked as Plaintiff's Exhibit No. 1.)

Q. (By Mr. Behnke): After the formation of the Corporation did the Corporation subdivide any portions of this land?

A. No; not at that time.

Q. Were there any sales made of the land during the years following the incorporation?

A. Well, as to the chronology, there were certain parcels sold. I believe the parcel sold to the United States Government for the lighthouse was previous to the incorporation.

Q. The answer is yes, there were parcels sold subsequent to that time?

A. Yes, there were parcels sold.

Q. Now, the income which was derived from the farming and mineral development, was that sufficient to pay the taxes at that time? [16]

A. It might have been in some one certain year, but over a period of years it was not sufficient.

Q. When was the first time that the Corporation actually subdivided any portion of the Ranch?

A. I believe it was around 1934 or '35.

Q. Could you relate the circumstances surrounding that project?

(Testimony of Harry E. Benedict.)

A. The situation as to real estate as it affected the Ranch was very slow, in a depressed state, during the years preceding that and the manager felt that possibly he could take an area in the Ranch that was in the main not suitable for farming and that possibly he could encourage people to buy what he termed Dude Ranches of from one to four or five acres, and accomplish two things: He might produce some funds for the Corporation and he would also take some very rough and unproductive land off our tax roll; and that was the genesis of that operation.

Q. Did the Corporation incur financial difficulties during this period of time?

A. Yes. Our taxes began to accumulate a little faster than we had funds to pay them and a substantial tax accumulation occurred, something like \$450,000.00, and Mr. Vanderlip died in 1937 and he had, in the years previous to his death, from time to time, purchased [17] additional land around the parcel he owned, on the other side of the ranch, to provide funds when we needed them, and the financial conditions of the '30s were such that this became burdensome to him and he did not feel able to continue to purchase land and to supply funds for the Corporation; and after his death, this tax matter became acute.

Q. Were the taxes delinquent on the real property from 1935 through 1944?

A. I can't answer as to the exact number of years there, but that was the approximate period.

(Testimony of Harry E. Benedict.)

Q. In the Stipulation of Facts we have it (Exhibit No. 9) as the taxes for those years. (Document handed to the witness.) Does that refresh your recollection?

A. Yes. The accumulated total I am familiar with, and that is from 1935-1936 through 1942-1943.

Q. Now, this portion that was subdivided, was a regular subdivision plat made of that portion?

A. My memory is that this was an acreage matter. I believe there is a distinction, isn't there, in Los Angeles County? These were sold in acreage parcels, I believe.

Q. But they were platted out on plat?

A. I would assume so. I don't know.

Q. And were improvements put into this subdivision [18] project?      A. Yes.

Q. What was this project known as?

A. Rolling Hills.

Q. Was water developed in connection with it?

A. Yes, a mutual water company was formed.

Q. Was that the Rancho Mutual Water Company?      A. Yes, sir.

Q. And the Corporation proceeded to sell those over the period of years down through the taxable year involved here?      A. Yes, sir.

Q. Is that correct?      A. Yes, sir.

Q. And at the same time, other sales were made outside of this subdivided portion, were they, in acreage parcels?      A. Yes, sir.

Q. Did the Corporation place any "For Sale"

(Testimony of Harry E. Benedict.)

signs on the portions of the Ranch outside of the Rolling Hills project?

A. I believe in no instances. We were rather insistent that there be no "For Sale" signs on the Rancho.

Q. And was this property ever listed with outside brokers? A. I believe not. [19]

Q. Except for 1944, were any prices ever fixed in advance upon any acreage parcels in the Ranch outside of the Rolling Hills project?

A. To my knowledge, there never was.

Q. How did these sales occur that were made?

A. The inquiries came from various sources to us for parcels of land, such as sales to the Federal Government in two or three instances; and some sales were made in acreage parcels by interested people.

Q. Did the Corporation make any improvements upon such parcels prior to their sale, in order to sell them?

A. No. I think in no instance we did.

Q. Would you say that the only thing the Corporation did would be to measure out in metes and bounds, or whatever legal description may have been necessary, to delineate those portions?

A. Yes.

Q. What improvements, in a general way, were made in connection with this real property, by the Corporation, after its acquisition?

A. Some roads were built and very little else



(Testimony of Harry E. Benedict.)

was done by the Corporation up to the Rolling Hills project.

Q. There were no real estate offices ever constructed on the portions outside of the Rolling Hills area—— A. No. [20]

Q. (Continuing): Were there?

A. No, sir.

Q. The Corporation did not employ real estate brokers in connection with the sale of their real property, did they, outside of the Rolling Hills project? A. No, sir.

Q. Were there efforts made by the Corporation to dispose of the whole real property holdings owned by the Corporation? A. Yes, sir.

Q. What efforts were made to dispose of this real property?

A. Well, you possibly want to start with after the incorporation. Of course, the whole property was offered for sale at the time the Bank of Italy Trust made the purchase of the first portion; all of it was offered for sale at that time.

Q. That is, by the syndicate?

A. That is right.

Q. In 1923?

A. That is right. Now, after the incorporation, I should think around 1940, an offer was made of all of the remaining property substantially, for park purposes, to the County or to the State or to a combination of the County and the State and possibly interests in the Federal Government, an



(Testimony of Harry E. Benedict.)

offer was made and efforts were made to [21] consummate the sale——

Q. And were those made through the General Manager of the Corporation? A. Yes.

Q. Who was that General Manager of the Corporation?

A. Mr. A. E. Hanson was General Manager at that time.

Q. Is he any longer in the employ of the Corporation? A. No; he is not.

Q. What efforts did he make in connection with the disposal of the whole of the real property?

A. I think he made very vigorous and continuous efforts, by consulting County officials and having them out to look at the property; I believe he contacted various State officials and my memory is that he also discussed the matter with some people in Washington. He made a vigorous effort to consummate it.

Q. And was this sale to have been made in the condition in which the land then was?

A. Yes, sir.

Q. Prior to the incorporation, there was a road put in by the syndicate, was there?

A. Yes, sir, around the Coast.

Q. I will produce more exact information on this later, your Honor. Could you roughly indicate at the present time where that road went, on the photograph here? [22]

A. The part held by the Bank of Italy Trust stops somewhere around here (indicating) and the

(Testimony of Harry E. Benedict.)

syndicate picked up the Coast Highway somewhere in there (indicating) and brought it on around and up to this grapevine here (indicating) and down through here (indicating) in connection with the roads at the inland side of the property. It was really across two sides of a rectangle.

Q. And that was put in approximately what year?

A. Approximately 1924, it must have been done.

Q. During the taxable year that is involved, was the Corporation willing to dispose of all of its remaining holdings of land?

The Witness: Of what year are you now speaking?

Mr. Behnke: 1944.

A. Yes. In the offer to the County, the State or to the Federal Government at that time, all of it was offered for sale.

Mr. Behnke: I have here a certified copy of a Resolution of the Board, which I should like to have marked as Plaintiff's Exhibit No. 4 for identification. There is a copy. (Mr. Behnke hands document to Mr. Mahoney.)

Deputy Clerk Drew: Is this the one you are offering?

Mr. Behnke: No. That is just a copy for his Honor, if he cares to see it prior to my offering it. [23]

Q. And would you read that resolution?

A. I have read it.

(Testimony of Harry E. Benedict.)

Q. Can you identify the signature of the Assistant Secretary of the Corporation thereon?

A. Yes, sir.

Q. And is that the seal of the Corporation (indicating on said document)?

A. Yes, sir.

Q. And was that the Resolution adopted by the Board of Directors in their meeting in January of 1944?

A. That is right.

Q. January what?

A. The 24th of January.

Q. January 24th?

A. Yes, sir.

Mr. Behnke: I would like to offer this into evidence as Plaintiff's Exhibit No. 4.

The Court: It will be received in evidence.

Deputy Clerk Drew: Exhibit No. 4 in evidence.

(Said document, so offered and received in evidence, as aforesaid, was marked Plaintiff's Exhibit No. 4.)

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#### PLAINTIFF'S EXHIBIT No. 4

Resolved: That the Board hereby authorizes the payment of expenses and fees in a sum not to exceed \$85,000 in the event a sale of approximately 8,500 acres of the Corporation's property is made to the Government at a gross price of \$1,700,000. Such payment of fees and expenses to be made upon the authorization of the President and Secretary of the Corporation with advice of Counsel. It is understood that the payment of these expenses and fees are contingent upon a sale and that they

(Testimony of Harry E. Benedict.)

are in addition to the authorized commission of five per cent.

I, John H. Robertson, Assistant Secretary of Palos Verdes Corporation, a Delaware Corporation, do hereby certify that the foregoing is a true copy of a resolution regularly adopted by the Board of Directors of said corporation at a meeting duly held on the 24th day of January, 1944, at which a quorum was present and voting throughout.

Witness my hand and the seal of said Corporation at Los Angeles, California, this 30th day of April, 1951.

[Seal]      /s/ JOHN H. ROBERTSON,  
Assistant Secretary.

Received in evidence May 1, 1951.

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Q. (By Mr. Behnke): Subsequent to that time, at a meeting of the Board of Directors on the 31st day of July, 1944—I would like to have this marked as Plaintiff's Exhibit No. 5 for [24] identification——

Deputy Clerk Drew: Exhibit No. 5 for identification.

(Said document was marked as Plaintiff's Exhibit No. 5 for identification.)

Q. (By Mr. Behnke, continuing): I ask you to read those resolutions.

(Mr. Behnke hands papers to the witness.)

(Testimony of Harry E. Benedict.)

And is that a true and correct copy of the Resolutions which were passed by the Board of Directors at the meeting on the 31st day of July, 1944?

A. Yes, sir.

Q. Is that the signature of the Assistant Secretary and the seal of the Corporation (indicating on said document)?

A. Yes, sir.

Mr. Behnke: I would like to introduce this into evidence, your Honor.

The Court: It may be received.

(Said document, so offered and received in evidence, as aforesaid, was marked Plaintiff's Exhibit No. 5.)

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#### PLAINTIFF'S EXHIBIT No. 5

Whereas, the Board of Directors of this corporation, Palos Verdes Corporation, organized under the laws of the State of Delaware, did heretofore pass a resolution authorizing the sale of all, or substantially all, of the property of this corporation located in Los Angeles County, California, and commonly known as Palos Verdes Rancho; and

Whereas, in pursuance of said resolution, the Vice-President of this corporation has been negotiating for the sale of all, or substantially all, of said property and has advised this Board of Directors that it is quite possible that said sale will be consummated; and

Whereas, the Certificate of Incorporation of this corporation, in Article VII thereof, provides that

(Testimony of Harry E. Benedict.)

this corporation may sell and convey all of its property when such sale is consented to by the vote of the holders of at least two-thirds in amount of the outstanding stock of the corporation at any regular or special meeting called for that purpose, or when consented to in writing by the holders of two-thirds in amount of said outstanding stock; and

Whereas, it is deemed advisable at this time to procure the consent of at least two-thirds of the holders of the issued and outstanding stock of this corporation authorizing this corporation to sell and convey all, or substantially all, of its property hereinabove referred to;

Now, Therefore, Be It Resolved, that the officers of this corporation be and they are hereby authorized and instructed to do such things and perform such acts as they may deem necessary for the purpose of obtaining the consent in writing by the holders of at least two-thirds in amount of the outstanding capital stock of this corporation to the sale of all, or substantially all, of said property of this corporation as hereinabove mentioned.

Be It Further Resolved, that such consent contain a copy of the foregoing power of this resolution and be further in the following form, to wit:

“The undersigned, being the owners of the amount of capital stock of Palos Verdes Corporation, a Delaware corporation, set opposite their respective names, do hereby approve the foregoing resolution and do hereby consent and



(Testimony of Harry E. Benedict.)

agree to the sale by said corporation of all, or substantially all, of its assets, including its real property located in Los Angeles County, California, and commonly known as Palos Verdes Rancho, said sale to be made upon such terms and conditions and for such price as the Board of Directors of said corporation may determine, provided, however, that this consent is given by each of the undersigned upon the express terms and conditions and with the understanding that in the event said sale is consummated all moneys, funds, and other property realized therefrom shall either (a) be distributed pro rata to the undersigned, respectively, or such thereof as desire the same to be distributed to them, according to the stock ownership in said corporation of the undersigned, respectively, or (b) that said Palos Verdes Corporation shall purchase from those of the undersigned who desire to sell the same all of their stock, at and for a price equal to the then book value of said shares of stock, respectively, and provided further that such distribution or purchase shall be made within a period of not more than ninety (90) days from and after the date of the sale of said property and the receipt by said corporation of the moneys, funds, or other property received by said corporation in connection with such sale.

“This consent may be executed in any num-

(Testimony of Harry E. Benedict.)

ber of counterparts, all of which shall be and constitute one and the same agreement.

“Stockholder	Number of Shares Owned
.....	.....
.....	.....
.....	.....”

I, John H. Robertson, Assistant Secretary of Palos Verdes Corporation, a Delaware corporation, do hereby certify that the foregoing is a true copy of resolutions regularly adopted by the Board of Directors of said corporation at a meeting duly held on the 31st day of July, 1944, at which a quorum was present and voting throughout; that said resolutions have not nor have any of them been repealed or amended and that the same are and each of them is now in full force and effect.

Witness my hand and the seal of said Corporation at Los Angeles, California, this 26th day of April, 1951.

[Seal]        /s/ JOHN H. ROBERTSON,  
Assistant Secretary.

Received in evidence May 1, 1951.



Q. (By Mr. Behnke): Now, was Mr. Hanson, the General Manager, a licensed real estate broker, do you know?        A. Yes, he was.

Q. And was he paid a commission by the Corporation in connection with such sales as he made?

(Testimony of Harry E. Benedict.)

A. Yes, sir. [25]

Q. Were his efforts to dispose of the whole Ranch to any governmental bodies successful?

A. No, sir.

Mr. Behnke: You may cross-examine.

### Cross-Examination

By Mr. Mahoney:

Q. Mr. Benedict, from the time of the incorporation of the Palos Verdes Corporation you have lived a substantial time in California, a substantial time in years? A. Yes.

Q. Now, you spoke of a sale in 1924 to a trust or a syndicate. Now, that sale was originally of the whole parcel on a conditional sale?

A. The promoter of the syndicate to buy, if I can use that term, had an option to buy all of the Ranch. I think that answers your question.

Q. And he only exercised the option as to the sections you have pointed out on the map?

A. He didn't raise as many funds as he had hoped to raise. Therefore, he compromised and purchased the property he could purchase.

Q. The property you previously pointed out on Plaintiff's Exhibit No. 1? A. Yes, sir. [26]

Q. At whose request was this map, Plaintiff's Exhibit No. 1, made?

A. It was made by that purchasing organization.

Q. I see. It was not made by the syndicate?

A. No, sir.

(Testimony of Harry E. Benedict.)

Q. The Palos Verdes syndicate?

A. No. It was actually made by Olmstead Brothers' organization, who were employed by the purchasing group.

Q. Now, you stated in the beginning a Mr. J. Lawyer was General Manager of the Palos Verdes Corporation. How long did he continue to be the Manager, approximately?

A. A close approximation would be possibly 1930.

Q. Then you changed managers in 1930?

A. If that is the year. It was approximately that.

Q. Approximately 1930? A. Yes.

Q. Then this Mr. Hanson became Manager?

A. No. Mr. Charles F. Schwedtman acted in that capacity for perhaps two years and Mr. Hanson was subordinate to him for that period.

Q. After this two-year period, then the managership reverted from Schwedtman and Hanson to Hanson? A. Yes.

Q. And did the Manager as such have an office in the Corporation? [27]

A. He had an office on the property.

Q. I mean was he an officer of the Corporation?

A. Yes. He was Vice-President.

Q. You fix about the subdividing of the section known as Rolling Hills at approximately 1936. Originally the sales in Rolling Hills were acreage sales, were they not? A. That is correct.

(Testimony of Harry E. Benedict.)

Q. And later a record of the survey was required? A. I believe that is true.

Q. To conform with County requirements for subdivisions? A. I believe that is so.

Q. Therefore, the individual purchasers had seen a record of the survey in the County Recorder's Office? A. I would assume so.

Q. From the years 1934-1935 up to approximately 1941 the Corporation more or less attempted to sell any property it could, in order to keep up with these taxes, did it not?

A. That is correct.

Q. And to effect that purpose put out certain what we might call leaflets, to pass out to the public, for the sale of this property?

May I have this marked for identification and put them all in one exhibit? [28]

The Witness: I would like to know what leaflets you are referring to.

Q. (By Mr. Mahoney): I will show you the leaflets. While we are waiting for the exhibits to be marked, Mr. Benedict, can you tell us how the sales or any sales in this whole tract, meaning the Rancho Palos Verdes, were handled? The Corporation didn't have a Broker's license, did it?

A. No. Mr. Hanson handled them as a real estate broker. He was a licensed Broker and received a commission on it for doing it.

Q. Weren't some of these sales handled through the Vanderlip Realty Company also?

(Testimony of Harry E. Benedict.)

A. No. Now I want to know just what period you are speaking of now?

Q. Well, generally from the period from approximately 1934 up to 1944?

A. No. There was no Vanderlip Realty Company then.

Q. There was another independent broker named I. W. Moore? A. That is correct.

Q. He also handled sales for this Corporation?

A. That is correct.

Q. During this period?

A. That is correct. [29]

Q. And commissions were paid to whomever made the sales? A. That is correct.

Deputy Clerk Drew: Defendant's Exhibits A, A-1, A-2, A-3 and A-4 for identification.

(The documents produced by Mr. Mahoney were marked as Defendant's Exhibits A, A-1, A-2, A-3 and A-4, for identification.)

Mr. Mahoney: Thank you.

Q. Mr. Benedict, I show you Defendant's Exhibit A-1 and ask you if that was a type of advertising passed out by the Corporation or its brokers for the sale of the Rolling Hills subdivision?

A. That is correct, it is Rolling Hills'.

Mr. Mahoney: I am sorry, counsel.

Mr. Behnke: I haven't seen the exhibit.

A. That is the Rolling Hills leaflet (indicating document).



(Testimony of Harry E. Benedict.)

Q. (By Mr. Mahoney): Exhibit A-1 relates to Rolling Hills, Mr. Benedict?

A. That is correct—that is Exhibit A.

Deputy Clerk Drew: There is Exhibit A and then A-1.

Q. (By Mr. Mahoney): Mr. Benedict, I show you Defendant's Exhibit A-1 and ask you if that was a type of advertising used during the development of Rolling Hills? A. Yes, sir. [30]

Q. I also ask you if you can tell the approximate date in which that was used, the approximate year?

A. I would guess around 1940.

Q. Around 1940, and there is a small map on the back showing the situation of Rolling Hills, on the back of the exhibit? A. Yes, sir.

Q. Showing where Rolling Hills is situated?

A. Yes, sir.

Q. I show you Defendant's Exhibit A-2 and ask you approximately in what year that exhibit was used for the sales of property in Rancho Palos Verdes?

A. I would make a guess, about 1937.

Q. In 1937. And that exhibit is not confined exclusively to Rolling Hills; it is confined to just the Rancho Palos Verdes, is it not?

Mr. Behnke: May I object to that question and have it stricken? The document I think will speak for itself.

The Court: Overruled.

The Witness: Will you repeat the question?

Mr. Mahoney: Will you read the question?

(Testimony of Harry E. Benedict.)

(Pending question read by the reporter.)

A. I would say that it was general in its nature and it could apply both to the Ranch and to Rolling Hills, but it applies to both in its text. [31]

Q. Thank you. I show you Defendant's Exhibit A-4 and ask you approximately what year the folder was used for the purpose of informing the public as to the Rancho Palos Verdes?

A. I believe this was 1945 or later, that particular folder.

Q. Thank you. I show you Defendant's Exhibit No. A-3 and ask you in what year that folder was used for explaining the Rancho Palos Verdes to the public?

A. This could not have been earlier than 1944 and I should think it was about 1945.

Mr. Mahoney: Thank you.

At this time, the Defendant would like to offer Exhibits A, A-1, A-2, A-3 and A-4 into evidence.

The Court: They may be received.

(Said documents, so offered and received in evidence, as aforesaid, were marked as Defendant's Exhibits A, A-1, A-2, A-3 and A-4.)

Mr. Mahoney: Thank you.

Q. At one time, in approximately 1936 or 1937, there were signs posted on the property offering one to a thousand acres for sale?

A. I don't remember a wording just like that. It might have been, but I do not remember it.

(Testimony of Harry E. Benedict.)

Q. You don't recall if there were such signs posted? [32]           A. No.

Q. Now, you mentioned that quite a bit of this property was under cultivation for certain types of crops. The Rolling Hills subdivision was under cultivation before it was subdivided, was it not?

A. Some portions of it, but due to the topography, it was limited in its farming usefulness.

Q. Now there is a map in existence entitled a crop map, is there not?

A. I am certain there is.

Mr. Mahoney: May I have this marked as an exhibit?

Deputy Clerk Drew: Defendant's Exhibit B for identification.

(Map marked as Defendant's Exhibit B, for identification.)

Q. (By Mr. Mahoney): Mr. Benedict, I call your attention to Defendant's Exhibit B, for identification, and ask you if this is the map that is commonly known as crop map of the Palos Verdes Corporation?           A. Yes; I believe it is.

Q. And this map indicates the areas under cultivation as of the date of its marking?

A. I don't know how current it is, but it is a crop map.

Q. Would you point out and exhibit to the Court which [33] areas were not under cultivation at the time of this map?

A. Well, I do not believe that I could do that

(Testimony of Harry E. Benedict.)

very accurately, without considerable study of the map and the legends here, because you understand that farming areas are interspersed among arroyos and hillsides and steep knolls, and I should say that the map would have to speak for itself on that, because we have cultivated areas with considerable areas that are not cultivated.

Q. Can you point out to us the area of Rolling Hills on that map?

A. It is approximately this area in here (the witness indicates on said map).

Q. Would you care to mark it with an R.H., so we can have it located? Do you have a red pencil?

Deputy Clerk Drew: Here are green and red pencils.

Q. (By Mr. Mahoney): With this red pencil could you trace its outline on the map, please, or as closely as you can recall?

(The witness complies with counsel's request and places marking on said Exhibit B.)

Q. And would you mark the interior of that with an R.H., the area you have marked off in red penciling?

The Witness: R.H. meaning what?

Mr. Mahoney: Meaning Rolling Hills.

(The witness places "R.H." on said [34] map.)

Mr. Mahoney: Thank you.

Q. Now, on the same map can you point out to

(Testimony of Harry E. Benedict.)

us the parcel of property that was sold in 1944 to Mrs. Snow?

A. It is this area right in here (indicating on map), but I would have to have it delineated on the map to——

Mr. Behnke: Counsel, I was going to introduce this into evidence, showing the Snow parcel delineated. I had Mr. Wilson, the engineer, make this delineation and I will stipulate that the portion sold to Audrey Snow in 1944 was this area that is circled in blue and in yellow.

Mr. Mahoney: Thank you.

Mr. Behnke: The blue areas I believe are the tillable areas in the Snow parcel and the yellow areas are the canyons and barrancas and the non-tillable areas in the Snow parcel which was sold.

Mr. Mahoney: Thank you, Mr. Behnke.

Q. The parcel that was sold to Mrs. Snow was under cultivation at the time it was sold, was it not?

A. Those parts that were normally cultivated, I assume, were under cultivation at the time of sale.

Q. They were under cultivation at the time of sale, those parts that could be cultivated?

A. I should think so.

Q. The sale took place in July and that was in the [35] middle of the farming season. What arrangements were made with the farmer when the sale took place?

A. I don't know, but I would assume that he concluded the farming, his crop contract.

Q. Going back to the year approximately 1939,

(Testimony of Harry E. Benedict.)

or 1940, it was in one of these years that approximately 2,500 or 3,500 post cards were mailed out to various people in Los Angeles County, offering for sale any number of acres for \$185.00 an acre?

The Witness: Are you asking me if they were sent out?

Mr. Mahoney: That is correct.

A. I believe that is true. If I saw one, I could identify it, but I believe that cards were sent out.

Q. Naming a specific price per acre?

A. Yes.

The Court: What was the answer to that last question?

The Reporter: Answer "Yes."

Q. (By Mr. Mahoney): Now, Mr. Benedict, in 1944, besides the sale to Mrs. Snow, there were also sales of property termed as acreage in approximately 531 acres. Are you able to point out on the map approximately where this other acreage was located?

A. I don't believe I am competent to do that. There were two or three parcels involved—three or four parcels involved. [36]

Q. Mr. Benedict, each year from about 1935 on up until approximately 1943 there was a document entitled Report of General Manager made by the General Manager of the Palos Verdes Corporation, was there not? A. Yes, sir.

Q. And that report was for the benefit of the stockholders? A. Yes, sir.

Q. And the Directors of the Corporation?



(Testimony of Harry E. Benedict.)

A. Yes, sir.

Q. And it told what had been done to raise money during the period of time and what the intention—the current policy of the Corporation was?

A. Yes, sir. Well, it was a report of the Manager to its Board and to the stockholders.

(Documents marked by the Deputy Clerk as Defendant's Exhibits C, D, E, F, G, H, I and J, for identification.)

Deputy Clerk Drew: Defendant's Exhibits C, D, E, F, G, H, I and J marked for identification.

Q. (By Mr. Mahoney): I have in my hands, Mr. Benedict, Defendant's Exhibit C for identification, which is entitled the General Manager's Report, Palos Verdes Corporation, September 30, 1935. Turning to the last page of that report and the last paragraph thereof, I ask you if the report does not indicate that the Corporation [37] through its General Manager was in the process of publicizing its holdings at that particular time?

Mr. Behnke: May I look at that, counsel?

Mr. Mahoney: I am sorry, counsel.

A. The answer is, obviously, yes, we wanted to sell it.

The Court: Just a moment, Mr. Benedict, until your counsel sees that.

Mr. Mahoney: May we have the answer to the question?

A. Yes, we wanted to sell the property and we

(Testimony of Harry E. Benedict.)

did want any favorable publicity we could have on it.

Q. Mr. Benedict, I hand you Defendant's Exhibit D, which is a General Manager's Report of the Palos Verdes Corporation, dated September 30, 1936. Would you care to see that before I question him on it, counsel?

Mr. Behnke: Yes.

(Said document was handed to Mr. Behnke.)

Mr. Mahoney: I might explain for the record that these Reports of the General Manager are here through a subpoena issued by Defendant.

Q. Calling your attention to page 11 of that Exhibit D, in which the Report relates to the sale of decomposed granite, I ask you if the report does not state that the sale was being made in such a way that it would not [38] interfere with the later subdivision of the properties? A. Yes.

Q. Thank you. I hand you Exhibit E, the Executive Vice-President's Report, Palos Verdes Corporation, for the year ending September 30, 1937, and ask you to turn to page 1 of that Report and ask you if in that report it does not state that the salvation of the Corporation is to go from farming to residential property? A. It so states.

Q. I hand you Exhibit F, the Palos Verdes Corporation Executive Vice-President's Report for the year ended September 30, 1938, and ask you to examine it.

(The witness examines said document.)

(Testimony of Harry E. Benedict.)

I ask you to turn to page 4 of that exhibit and ask you if again the statement in the Report is that the only salvation of the Corporation is that they go from farming to sales of their real property?

A. It isn't stated exactly as you put it, but substantially so.

Mr. Mahoney: If you care to have me rephrase my statement, I will.

Mr. Behnke: May he read the statement?

Mr. Mahoney: He may read it.

A. "The future of the Palos Verdes Corporation is dependent on the successful development and sales of its [39] land."

Q. Thank you. Now, I show you Exhibit G, Executive Vice-President's Report of the Palos Verdes Corporation for the fiscal year ending September 30, 1939. Calling your attention to page 5 and page 6 of that report, I ask you if that report does not indicate that the Corporation was in the process or had made a sale to the Navy for a housing project and was attempting to sell property adjacent thereto for the same purposes?

A. We were trying to sell property to anyone who would buy it, and that is what this report does say.

Q. And again, that the only salvation of the Corporation is in the sales of its real property?

A. That is right.

Q. Thank you. I now hand to you Exhibit H, which is Executive Vice-President's Report for the fiscal year ending September 30, 1940.

(Testimony of Harry E. Benedict.)

A. (The witness examines said document): Yes, sir.

Q. Calling your attention to page 4 of Exhibit H, I ask you if the report does not state that an attempt is being made to dispose of real estate in order to pay off the delinquent County taxes?

A. It does state that.

Q. Calling your attention to page 8 of that report, I ask you if it does not state that the farming is becoming [40] unprofitable and that real estate is the only thing that the Corporation had that profitably could be sold?

A. Yes, because if you would care to read that question——

Mr. Mahoney: If you would care to read the paragraph in this report, the top paragraph on page 8, if you feel I am misleading you——

The Witness: No.

The Court: As far as reading what is in it, that is a matter for the Court. He is interpreting what is in it. That is a matter for the Court. If you have in mind just having him state it, although I suppose counsel hasn't either, it would be more expeditious to save time, but I think probably to get away from just the vice that you are running into now, you could refer to the report, with particular reference to a portion thereof, read it yourself and just ask the witness if that was not a report that was issued on that date, at that time. Then you are accomplishing your purpose in bringing that specific portion to the attention of the

(Testimony of Harry E. Benedict.)

Court and at the same time you are not asking him to interpret it.

Mr. Mahoney: That is correct. I have been trying to stay away from that, your Honor. I am sorry.

Q. Calling your attention to page 9 of Exhibit H, that is a report issued at the time that there was an attempt [41] to sell certain acreage at \$300.00 an acre? A. Yes.

Q. Calling your attention again to pages 10 and 11 of Exhibit H, I ask you if this report can fix the date in which these cards were mailed out advertising the acreage at approximately \$185.00 an acre?

A. Yes. I believe it does enable one to fix that very approximately.

Q. That was in what year?

A. It would probably have been in the year 1940.

Q. I hand you Defendant's Exhibit I, which is Report of the General Manager for the year ending September 30, 1941, and call your attention to pages 8 and 9 thereof, and ask you if that was a year in which an attempt was made to sell certain acreage to a syndicate for subdivision purposes near the Naval housing project?

A. Yes, we were trying to sell a substantial parcel to a syndicate.

Mr. Mahoney: Thank you. I would like to offer into evidence Defendant's Exhibits D, E, F, G, H, I and C.

(Testimony of Harry E. Benedict.)

The Court: They may be received.

(Said documents, so offered and received in evidence as aforesaid, were marked by the Deputy Clerk as Defendant's Exhibits C, D, E, F, G, H and I, in evidence.) [42]

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## DEFENDANT'S EXHIBIT C

Palos Verdes Corporation

General Manager's Report

September 30, 1935

### General

Due to the change of the fiscal year of the Palos Verdes Corporation from December 31 to September 30, the following report is for the period of nine months only.

There has been some slight pickup in the real estate market.

The prices received for fresh vegetables were considerably less than the previous year, as well as the prices received for hay and beans.

### Real Estate

\* \* \*

### Vegetable Lands

#### Coast Vegetable Lands:

Revenues received from coast vegetable lands from 1927 to 1935, inclusive:



(Testimony of Harry E. Benedict.)

1927.....	\$15,617.50
1928.....	15,600.00
1929.....	8,949.95
1930.....	15,840.00
1931.....	9,110.00
1932.....	23,840.00
1933.....	26,776.45
1934.....	28,594.29
1935.....	31,126.50

1682 acres of Coast Vegetable Lands were leased to June Sakai at \$18.50 an acre, for \$31,126.50. Due to the very low prices received from the produce of these lands, Sakai was unable to pay the last \$3,000 due on the lease. This is expected to be collected by April 1, 1936.

#### Inland Vegetable Lands:

A total of 728 acres of inland lands were leased on a crop share or cash rent basis.

#### Crop Share Leases

	Acres	Total Cash Rec'd	Cash Rec'd per Acre
1933.....	42	\$1,171.45	\$27.70
1934.....	364	5,798.86	15.95
1935.....	473	5,458.17	11.54

#### Cash Leases:

1934.....	38 Acres @ \$ 7.50 =	\$ 285.00	
	100 Acres @ 9.00 =	900.00	\$1,185.00
1935.....	210 Acres @ 7.50 =	1,575.00	
	45 Acres @ 10.00 =	450.00	2,025.00

Inland vegetable lands, prior to the 1932-33 crop, were in barley hay. The rent received was anywhere from 34c an acre to \$8.00 an acre. While we

(Testimony of Harry E. Benedict.)

have constantly increased the amount of acreage taken from barley hay and put into vegetables, the amount of return per acre for rent has decreased each year, due to the fact that vegetables are coming on the market at the same time as ours, from lands not heretofore in vegetable production; that the last two seasons have been mild all over Southern California, and the lands that mature their crops later than ours have matured them at the same time as ours; and also that the purchasing power of the public has decreased.

### Field Crops

During the crop year 1935, 3021 acres were planted to field crops—barley, barley hay, lima beans—which brought in a gross revenue of \$22,-308.00

#### Number of Acres Planted and Our Share

	Acres	Cash Value	Per Acre
1932.....	3855	\$17,251.21	\$4.48
1933.....	3855	22,457.07	5.83
1934.....	3020	18,431.00	6.10
1935.....	3021	22,308.16	7.35

The average production was:

1934.....	2833 Acres in hay, producing 5798 tons, average 2.04 tons per acre.
1935.....	1521 Acres in hay, producing 5156 tons, average 3.39 tons per acre.
1934.....	306 Acres in beans, producing 1211 sacks, average 3.9 sacks per acre.
1935.....	200 Acres in beans, producing 1288 sacks, average 6.4 sacks per acre.
1935.....	1300 Acres in grain, producing 34828 sacks, average 27.0 sacks per acre.

(Testimony of Harry E. Benedict.)

### Natural Resources

#### Dicalite Company:

The Dicalite Company has a lease on 259 acres. This lease expires March 31, 1945. The lease is on a royalty basis of 65c per ton. For the first nine months of 1935, the royalties amounted to \$11,-138.97. For the corresponding period in 1934, \$13,-106.68.

#### Rotary Mud:

Due to the vast curtailment in oil well drilling, until late summer of 1935, there was very little oil well drilling. There was so little mud business, that we believed it more satisfactory if arrangements could be made to allow a trucking company or a concern already engaged in supplying materials to the oil industry, to handle the Rotary Mud business, as they could do it more profitably than the Palos Verdes Corporation. For this reason, a lease was made by the Owl Truck & Materials Co. for the sale of this mud on a royalty basis of 20% of the prevailing price at the mud pit. The revenue received from the sale of mud for the

First nine months of 1934.....	\$1750.00
First nine months of 1935.....	1516.18

#### Flagstone:

No flagstone was offered for sale during the year 1935, due to the desire to conserve this stone for

(Testimony of Harry E. Benedict.)

tion lies in the development of its land for fine residential purposes. It is so varied scenically and climatically, as well as in contour, that it is adapted for the cheapest as well as the most expensive houses.

At the present time, we are developing a portion of our property of approximately 600 acres under the name of "Rolling Hills," to supply homes to those making between \$500 and \$1000 a month who can afford to pay between \$12,000 and \$20,000 for a house and lot.

### Farming

The total acreage under cultivation in 1936.....	5118 Acres
The total acreage under cultivation in 1937.....	4900 Acres
— a deduction of.....	218 Acres

This acreage was taken out of cultivation as it was impossible to farm it profitably.

### Coast Vegetable Lands:

Revenues received from coast vegetable lands:

1936.....	\$29,128.25
1937.....	\$26,737.50

Coast acreage leased for vegetables:

1936 .....	1574½ Acres
1937 .....	1575 Acres

A cash rental of \$18.50 an acre was received. However, the Palos Verdes Corporation agreed for

(Testimony of Harry E. Benedict.)

the farm-year 1937 to refund to the Japanese, to cover their general office expense, \$1.52 per acre. In prior years, the Japanese have paid this amount themselves, but due to the very poor returns for the crop year 1936, it was impossible for them to carry on unless some adjustment was made by the Corporation.

#### Inland Vegetable Lands:

	Acres	Revenue	Average per Acre
1936.....	843.6	\$ 7,948.71	\$ 9.42
1937.....	942.78	10,608.66	11.24

#### Field Crops

During the crop year 1937, 2382.2 acres were planted to field crops—barley, barley hay and beans—which brought in a gross revenue of \$15,874.36 or \$6.66 an acre, against 2700 acres in 1936 with a total revenue of \$12,955.87 or \$4.80 an acre. This is an increase of \$1.80 an acre.

#### Summary of Farm Lands

Total Farm Revenue—1936.....	\$50,032.83
Total Farm Revenue—1937.....	53,220.52

#### Natural Resources

##### Dicalite Company:

There is no change in the Dicalite lease, which runs until March 31, 1945, at a royalty of 65c per ton.

(Testimony of Harry E. Benedict.)

1936—royalties	.....\$16,329.62
1937—royalties	..... 16,113.24

#### Rotary Mud:

In December, 1936, a five-year lease was signed with Mojave Corporation for the operation of the rotary mud deposit on the lands of the Palos Verdes Corporation. This lease called for a minimum royalty of \$6,000 for the year 1937.

1936—royalties	.....\$2,887.11
1937—royalties	..... 6,338.00

#### Decomposed Granite:

Graham Bros, continued to operate our decomposed granite deposits and paid us a revenue during 1937 of \$3,678.71, as against \$1,266.27 for 1936.

#### Road Dirt:

During the Wilmington-Long Beach oil field boom in 1937, a great deal of common dirt was used for sub-bases to the roads across the sand flats. Our Ranch supplied much of this dirt through the operations of two trucking contractors, who paid us a royalty of 5c per yard, or a total of \$21,310.56. This is probably a non-re-occurring item.

#### Rock:

Some rock and flagstone was sold during 1937—the majority of it to the residents of Rolling Hills.

1936	.....\$ 561.11
1937	..... 2,034.95

Received in evidence May 1, 1951.



(Testimony of Harry E. Benedict.)

DEFENDANT'S EXHIBIT F

Palos Verdes Corporation

Executive Vice-President's Report  
Fiscal Year Ending September 30, 1938

Farming

As repeatedly stressed in my past reports, our revenue from farming has been declining every year, and will continue to decline at an increased rate due to labor costs (over which we have no control), and to the wearing out of our soil. The decrease this year was \$9700.

\* \* \*

Real Estate

The future of the Palos Verdes Corporation is dependent on the successful development and sales of its land. In the past year, \$122,529.49 worth of land was sold. The book value of this land, plus sales and all development costs, amounted to \$77,951.16, giving a gross profit of \$44,578.33. Every effort will be made to increase sales during the coming year.

\* \* \*

Received in evidence May 1, 1951.

(Testimony of Harry E. Benedict.)

## DEFENDANT'S EXHIBIT G

Palos Verdes Corporation

Executive Vice-President's Report

Fiscal Year Ending September 30, 1939

\* \* \*

The United States Government has spent \$150,000 on plans and surveys for the Navy Housing at "Harbor Hills," and are expecting to break ground on a million and a half dollar project before January 10, 1940. Under the terms of the gift deed from the Corporation to the United States Housing Authority, no business may be operated on the land given to the Government. This gives the Palos Verdes Corporation the monopoly on all the business property in "Harbor Hills," and should be the source of a continuous profitable income, either from building the stores and leasing them or ground leasing the business property.

We have made plans at "Harbor Hills" for the development of a community of small two-bedroom homes just east of the Government Project, these homes to be either built and sold by the Palos Verdes Corporation, or the Corporation might put in the streets and improvements and get some operative builders to build the houses. We expect to have definite plans on "Harbor Hills" worked out by January 1.

As repeatedly stressed in these annual reports, the management believes that the future of the Corporation lies in successfully disposing of the

(Testimony of Harry E. Benedict.)

real estate, either in large blocks or in small home sites or to speculators, and in being ready to take advantage of the real estate cycles, disposing of as much property as it can during the periods of prosperity, as it is not possible to work the land profitably from a farming standpoint.

\* \* \*

Received in evidence May 1, 1951.

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## DEFENDANT'S EXHIBIT H

Palos Verdes Corporation

Executive Vice-President's Report  
Fiscal Year Ending September 30, 1940

Rolling Hills, California,  
October 15, 1940.

As in the past, the Palos Verdes Corporation's income this year was derived from farming, natural resources and sale of real estate. The Corporation's loss for the fiscal year ending September 30, 1940, was \$73,217.92 as against \$80,501.05 in 1939. However, in the \$73,217.92 loss is included an expense item of \$21,583.71 which represents the book value of the land which was given to the Los Angeles County Housing Authority. Without this item the loss is \$51,634.21.

\* \* \*

The Corporation is now delinquent in its taxes since 1935-36. During the last summer a great deal

(Testimony of Harry E. Benedict.)

of work was done with the County Board of Supervisors to see if they would not buy from us 1800 acres of land for \$374,000, this money to be used to pay the County \$374,000 of current and delinquent taxes. Because three of them were running for reelection, this sale could not be completed. If these taxes are not paid by July 1, 1941, the State of California will obtain title to the property. We are planning to bring suit against the County of Los Angeles on the ground that our taxes are illegal, and believe there is a possibility of working out a compromise with the County as to the face of the tax bills and that it will not be necessary for us to pay interest or penalties. We believe that with the national election out of the way, real estate will pick up and that we will be able to dispose of enough property to meet the adjusted tax bills, as well as to have some working capital.

The Portuguese Bend Road was completed, surfaced and in use by the summer of 1940.

### Farming

Our farming revenue for the year 1940 is practically the same as it was in 1939 and 1938. As shown by the following, there was a decrease in the amount of acreage in vegetables, but there was a slight increase in the amount of hay, grain and bean land, and we were able to get an average higher rent for the vegetable lands in 1940 than in 1939. Due to war conditions the price of barley grain was

(Testimony of Harry E. Benedict.)

less this year than last year, and this brought the average return for the hay and grain lands to \$4.90 per acre from \$5.10. We see no way of increasing the farm revenue over what it has been the past three years.

### Vegetable Lands:

	No. Acres	Gross Revenue	Average per Acre
1936.....	2418.1	\$37,076.96	\$15.33
1937.....	2517.78	37,346.16	14.83
1938.....	2205.02	34,252.91	15.50
1939.....	2113.85	33,063.43	15.64
1940.....	1970.35	32,305.63	16.39

### Hay and Grain Lands:

	No. Acres	Gross Revenue	Average per Acre
1936.....	2700.0	\$12,955.87	\$4.80
1937.....	2382.2	15,874.36	6.66
1938.....	2769.8	12,166.16	4.39
1939.....	2751.4	14,179.40	5.10
1940.....	2882.6	14,153.79	4.90

Total Farm Revenue—1936.....	\$50,032.83
1937.....	53,220.52
1938.....	46,419.07
1939.....	47,242.83
1940.....	46,459.42

### Natural Resources

Our revenue from natural resources is about the same as last year, as shown by the following tables:

(Testimony of Harry E. Benedict.)

## Diatomaceous Earth:

1936 — royalties.....	\$16,329.62
1937 — royalties.....	16,113.24
1938 — royalties.....	12,850.77
1939 — royalties.....	14,752.59
1940 — royalties.....	18,029.45

## Rotary Mud:

1936 — royalties.....	\$ 2,887.11
1937 — royalties.....	6,338.00
1938 — royalties.....	5,000.00
1939 — royalties.....	4,000.00
1940 — royalties.....	4,213.86

## Decomposed Granite:

1936 — royalties.....	\$ 1,266.37
1937 — royalties.....	3,678.71
1938 — royalties.....	1,967.84
1939 — royalties.....	3,189.08
1940 — royalties.....	5,268.33

## Road Dirt:

1937 — royalties.....	\$21,310.56
1938 — royalties.....	6,893.10
1939 — royalties.....	1,508.63
1940 — royalties.....	426.20

## Flagstone:

1936 — royalties.....	\$ 561.11
1937 — royalties.....	2,034.95
1938 — royalties.....	1,161.11
1939 — royalties.....	707.84
1940 — royalties.....	180.48



(Testimony of Harry E. Benedict.)

### Total Income Natural Resources

1936 .....	\$21,044.11
1937 .....	49,475.46
1938 .....	27,872.82
1939 .....	24,158.24
1940 .....	28,118.32

\* \* \*

### Real Estate

The average revenue from farming operations for the past five years has been \$48,674 and taxes have averaged \$67,024 per year. The corporation is going to be dependent in its survival upon its development of real estate and natural resources. Our natural resources cannot be counted on as a staple income because they are being constantly depleted. Therefore, real estate is our all important merchandise. The only real estate that we have is for residential purposes as the trend at this time is for real estate for use and not for speculation. Broadly speaking, there are two residential uses for our property. One is for year around homes and the other is for week-end places and hobby ranches. The latter are luxuries.

\* \* \*

We have tried for months to sell this land for \$300 an acre to speculative builders.

\* \* \*

(Testimony of Harry E. Benedict.)

There is a great urge on the part of people of means to acquire a piece of land that would give them a living and an income if conditions should become worse than they are today. Therefore, wealthy people buying acreage are looking for going profitable farms or orchards. The cost of water on our land is so high as to make commercial farming requiring water impractical. Dry farming and cattle raising pay only when you have a large block of acreage at a low capital cost. Such land is selling between \$10 and \$50 per acre. It would be ridiculous for us to offer our property at that price. We are endeavoring to sell some 50- and 100-acre blocks to wealthy people to be used as summertime and week-end homes. We recently mailed out 10,000 circulars offering some acreage at \$185 per acre. We got twenty-five return postal cards, but have not made any sales.

\* \* \*

Received in evidence May 1, 1951.

(Testimony of Harry E. Benedict.)

## DEFENDANT'S EXHIBIT I

Palos Verdes Corporation

Executive Vice-President's Report  
Fiscal Year Ending September 30, 1941

### Real Estate

Sales of land during the current year amounted to \$122,446.43, an increase of \$100,175.42 over the previous year. The actual cost of this land, including all improvement charges, amounted to \$72,-894.89, leaving a profit (before deducting appreciation of \$84,267.53) of \$49,551.54, or a loss of \$34,-715.99 if the \$84,267.53 is considered.

Ten houses were built in Rolling Hills during the current year, at an approximate cost of \$100,000.

An attempt was made to sell the U. S. Navy a hospital site of one hundred thirty-five acres. After a great deal of strenuous work on the part of the writer, the site and the price were approved by Rear Admiral Ross T. McIntire, Surgeon General of the U. S. Navy, and the Navy Shore Stations Development Board. When this information was published in the Long Beach papers, Long Beach brought so much political pressure to bear upon Congress that the Surgeon General's selection was overruled and a site for the hospital was acquired in Long Beach by condemnation proceedings.

The Los Angeles County Housing Authority Harbor Hills Project is now completed and partially occupied.

(Testimony of Harry E. Benedict.)

Negotiations are under way for the sale of 120 acres just east of the Harbor Hills Housing Project to a syndicate who are planning to build and sell 480 houses, the houses to be built 100 at a time and the 480 to be built just as fast as they can be sold on the market.

.....,

A. E. Hanson

Executive Vice-President.

Received in evidence May 1, 1951.

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The Court: We will recess until 1:30.

(And thereupon a recess was taken until 1:30 p.m. of the same day, Tuesday, May 1, [43] 1951.)

Thursday, May 1, 1951

Mr. Mahoney: Your Honor, I wish to apologize for being late. I misunderstood the time court would reconvene and understood it to be 2:00 o'clock instead of 1:30.

The Court: Very well. You may proceed.

Mr. Mahoney: Thank you. Will you mark this, please?

(Map marked as Defendant's Exhibit K, for identification.)

Deputy Clerk Drew: Defendant's Exhibit K, for identification.

HARRY E. BENEDICT

resumed the witness stand as a witness on behalf of the Plaintiff, having been previously duly sworn, and testified further as follows:

Cross-Examination

(Continued)

By Mr. Mahoney:

Q. Mr. Benedict, I hand to you Defendant's Exhibit K, a Gibbs map of Rancho Palos Verdes, and ask you if that is a map of the entire Rancho Palos Verdes?

A. Well, substantially so. There is a little of the Panhandle that isn't shown, but it is substantially that whole area.

Q. What is the approximate date that that map was drawn?

A. The actual date stated is March 25th, [44] 1941.

Q. Do you know if that map was used in connection with the sales of real property of the Rancho Palos Verdes?

A. I have no knowledge that it ever was.

Mr. Mahoney: I would like to introduce Exhibit K into evidence.

The Court: It will be received.

(Said map, so offered and received in evidence, was marked as Defendant's Exhibit K.)

Mr. Mahoney: Next, for identification, the map of Palos Verdes Park.

(Testimony of Harry E. Benedict.)

(Map marked as Defendant's Exhibit L, for identification.)

Deputy Clerk Drew: Defendant's Exhibit L, for identification.

Q. (By Mr. Mahoney): Mr. Benedict, I hand to you Defendant's Exhibit L, which purports to be a map of Palos Verdes Park. Here is the top of it. Is that the plat or the map which was used in conjunction with the proposed sale to the County or to the Federal Government for use as park purposes?

A. It might have been one of them. I don't know that it was the map. It perhaps was used.

Q. There were several maps such as that used for the sale purposes? A. I imagine so.

Q. And that is one of those maps? [45]

A. I should think so.

Mr. Mahoney: I offer Defendant's Exhibit L into evidence.

The Court: It may be received.

(Said map, so offered and received in evidence, as aforesaid, was marked by Deputy Clerk Drew as Defendant's Exhibit L in evidence.)

Q. (By Mr. Mahoney): Mr. Benedict, are you at all familiar with the contracts made with the various farmers for the land that was rented out for farming purposes?

A. I would have no detailed knowledge of that.



(Testimony of Harry E. Benedict.)

Mr. Mahoney: You have no detailed knowledge of it.

No further questions.

Redirect Examination

By Mr. Behnke:

Q. Mr. Benedict, referring to Defendant's Exhibits C, D, E, F, G, H and I, reports of the General Manager which were introduced into evidence by the Defendant, these reports were in the nature of a general report, were they not, of all of the activities of your Corporation during the particular years involved? A. Yes, sir.

Q. In other words, they discussed the real estate, the real estate activities of the Corporation, the farming and the revenues derived from the farming [46] activities of the Corporation, and they also referred to certain other financial matters relating to the Corporation and the profit and loss in certain instances. Now, where the Manager speaks of the future of the Corporation, were those in the nature of recommendations to the Corporation?

A. No. This was a report of a man on his stewardship as Manager. Matters that came up for definitive action on the part of the Board were made at Board meetings on direct recommendation of the Manager.

This was an annual report made for the benefit of the stockholders.

(Testimony of Harry E. Benedict.)

Q. Then, the statements embodied in these reports do not necessarily reflect the policy of the Corporation as such?

A. No, sir. They were the Manager's comments on matters to consider.

Q. Now, counsel has called your attention, in connection with Exhibit G (pages 5 and 6) to the efforts of the Corporation to dispose of its real estate and the Report reads:

"As repeatedly stressed in these annual reports, the management believes that the future of the Corporation lies in successfully disposing of the real estate, either in large blocks or in small home sites or to speculators, [47] and being ready to take advantage of the real estate cycles, disposing of as much property as it can during the periods of prosperity, as it is not possible to work the land profitably from a farming standpoint."

It is true, is it not, that the Corporation during the year of this Report was making efforts to dispose of all or portions of its property?

A. Yes. We had a large tax accumulation that was worrying us.

Q. However, the Corporation, during this year or during any other years except with respect to the Rolling Hills project, did not develop it in a business sense, a real estate business sense, did it?

A. No, sir.

Q. In other words, no other portions of the Ranch were platted out and roads put in and improvements made in connection therewith?

(Testimony of Harry E. Benedict.)

A. No, sir.

Q. So that the sales that were made in your efforts during these years were of the lands in their condition that they substantially were at the time of acquisition?

A. That is correct.

Q. Would that be correct?

A. That is correct.

Q. Now, many of these sales that were made, Mr. Benedict, [48] were made to people who in turn developed, subdivided and sold those properties, were they not?

A. Yes, sir.

Q. Now referring to these cards that were sent out by Mr. Hanson, they are contained in the Exhibit H report for the year 1940, in which he states, on page 11, "We recently mailed out 10,000 circulars offering some acreage at \$185.00 per acre." Could you tell the Court to what that acreage referred?

A. At least to a considerable extent it referred to an acre across Palos Verdes Drive North and toward—Is that Narbonne Avenue that comes in by the reservoir?

Q. Could you designate the portions referred to?

A. Yes, I could designate it. It particularly had to do with this area in here (witness indicates on map), which Mr. Hanson held in rather low esteem. It was not arable land in the main. It was rough. He felt the view wasn't very good and that if he could divest the Corporation of a few hundred acres in there, for something, it would be to our advantage, and he doubted its future value. And

(Testimony of Harry E. Benedict.)

that was one of the primary reasons that he sent his cards out. Now, if he had inquiries, I suppose it would have affected any other property that he could have sold advantageously, but that was the thing that he particularly had in mind. [49]

Q. This land on the rearage of the area——

A. Yes.

Q. And land which is indicated on the Corporation's crop section map here as being tillable was barren and non-income producing, is that correct (indicating on map)?

A. I should think that was substantially correct. I doubt if we farmed very much of that area. There might have been some barley—— ..

Q. And was any of this (indicating on map) area platted out or improved in any way?

A. Not at that time.

Q. Now referring to Exhibit K introduced by the Defendant, that is, the Gibbs map, did the Corporation itself adopt this map as a plan of operation and development of the Ranch?

A. No. I have no memory of their ever having given any serious consideration to the map. They certainly never adopted it in any sense in its method of operation.

Q. Now referring to Defendant's Exhibit L, which was a Palos Verdes park project; this land which is plotted as a park, was that substantially all of the holdings of the Palos Verdes Corporation at that time?

A. As I look at the map, it would seem to be

(Testimony of Harry E. Benedict.)

substantially all of it.

Q. There is, of course, excluded from this the Rolling [50] Hills?

A. Excluding the Rolling Hills, the Filiorum, the United States Government——

Q. Lands not owned by the Corporation?

A. ——lands not owned by the Corporation.

Q. And it is substantially all of the contiguous area that was owned by the Corporation at that time?

A. I would say all of it so far as I can see from that map.

Q. And the Corporation did make efforts to dispose of this in its entirety to the County of Los Angeles?

A. Oh, they made extensive efforts, they made substantial expenditures in the costs of presenting it over the period of months, for a year or two, made every effort to consummate such a transfer.

Q. Did the Corporation make any improvements or install any kind of development here (indicating on map) for the purpose of endeavoring to sell at this time——

A. No; I think not.

Q. ——to the County?           A. No, sir.

Q. In other words, this map represents the land substantially in the same condition as when the Corporation acquired it, is that correct?

A. That is true. [51]

Mr. Behnke: I think those are all the questions I have of Mr. Benedict.

Mr. Mahoney: That is all.

The Court: You may step down.

CHARLES C. MILLER

called as a witness herein on behalf of the Plaintiff, being first duly sworn, testified as follows:

Direct Examination

By Mr. Behnke:

Deputy Clerk Drew: Your full name, please?

A. Charles C. Miller.

Q. (By Mr. Behnke): Mr. Miller, what is your address? A. My home or office address?

Q. Your office address?

A. 326 West 3rd in Los Angeles.

Q. What is your business or profession?

A. I am a Civil Engineer.

Q. Are you licensed under the applicable provisions of the State law, as a Civil Engineer?

A. I am.

Q. How long have you been in the profession of a Civil Engineer? A. 29 years. ....

Q. Are you familiar with the Rancho Palos Verdes? A. Yes. [52]

Q. How long have you been familiar with the Ranch? A. Since 1936.

Q. And from time to time you have done work for the Corporation? A. Yes.

Q. Did you prepare the delineation of the portion sold to Snow on this map (indicating map)?

A. I did.



(Testimony of Charles C. Miller.)

Q. And do these portions in yellow and blue correctly delineate on that map the portions that were sold to Snow in 1944? A. Yes.

Q. At the time of that sale, did you cause to have the engineering and surveying work done in connection with that parcel? A. I did.

Q. When did you do that?

A. I don't know exactly, but it was sometime the early part of 1944.

Q. Was that parcel in the platted area designated on this map as Rolling Hills?

A. How is that again?

Q. Was that in the platted and subdivided area which is designated here as Rolling Hills?

A. No. It was outside of Rolling Hills. [53]

Q. In other words, there was no segregation or delineation of that property prior to the time that you surveyed it and engineered it for sale?

A. Nothing except the tax map that was prepared, and the tax parcels were delineated on the map. Then, later, the survey on the ground was made for the Snow purchase and that boundary of the Snow property was then put on this map.

Q. And the blue on the map indicates the tillable portions of that property?

A. Yes. That crop map was made prior to my connection with the Ranch, and the delineations of cultivated land I have just reproduced from the original crop map. I did not make the crop delineations myself.

Q. But those were the delineations on the maps

(Testimony of Charles C. Miller.)

that had been used by the Corporation in the past?

A. Yes; that is right.

Q. In connection with its farming activities, is that correct? A. Yes.

Mr. Behnke: I wonder if we could take this map down.

Mr. Mahoney: This is not in evidence.

Mr. Behnke: Oh, it is not in evidence?

Mr. Mahoney: No.

Mr. Behnke: I would like, your Honor, to introduce this [54] in evidence. It is Defendant's Exhibit B.

The Court: Do you want to introduce it as your exhibit?

Mr. Behnke: Yes, I would like to. It doesn't make much difference.

The Court: It may be marked Plaintiff's Exhibit next in order, then, and received in evidence.

(Said map, so offered and received in evidence, as aforesaid, was marked as Plaintiff's Exhibit No. 6.)

Q. (By Mr. Behnke: Now referring to this aerial photograph of the Ranch, could you point out to the Court approximately the area there which would be included in the Snow sale?

A. Yes, if I can get up closer to it. (The witness leaves the witness stand and stands before said map at the easel.) It would be in the area just south and west of the reservoir site as indicated here and some in here (indicating on said map).

(Testimony of Charles C. Miller.)

The Court: Will that map take a pencil marking?

Mr. Behnke: I do have some transparencies which I will introduce later into evidence, which will overlay that. I think they will delineate it clearly and exactly.

We can mark this for identification as Exhibit No. 7.

(A transparency was marked as Plaintiff's Exhibit No. 7, for identification.)

Deputy Clerk Drew: Plaintiff's Exhibit 7 for identification. [55]

Mr. Behnke: I will use some tacks.

(Said Exhibit 7 was overlaid on said aerial map upon the easel.)

Q. Now referring to Plaintiff's Exhibit No. 7, did you prepare this exhibit under the employment of the Plaintiff? A. Yes.

Q. And on this map you have in red color the Palos Verdes Water Company, or is it in orange?

A. That is in orange.

Q. In orange. That indicates, does it not, the existing line of the Water Company, of the Palos Verdes Water Company? A. Yes; it does.

Q. And that runs along this portion here (indicating on said exhibit) down to this—is this a subdivision here (indicating on said exhibit)?

A. That is locally known as Miraleste.

Q. And this line, this water line, do you know approximately what date that was put in?

(Testimony of Charles C. Miller.)

A. No, sir. It was prior to my connection with the Ranch in 1936.

Q. Prior to 1936? A. Yes.

Q. And this water line that runs along here, along the southern portion, is also the water line of the Palos Verdes Water Company? [56]

A. Yes, it is.

Q. And indicated on this map in blue are the water lines of the Rancho Mutual Water Company? A. Yes.

Q. And this water system (indicating on said exhibit) is for the purpose of servicing the Rolling Hills project proper? A. Yes.

Q. Now, the next indication on here is the Crest Road and it is this indication here (indicating) on the map in yellow? A. Yes.

Q. Is that a paved highway or a paved road?

A. Yes.

Q. And the blue mark in here (indicating on said exhibit) —now this, your Honor, is a projection of the Ranch out in this direction (indicating), which we were not able, of course, to get on this map here—what does that indicate?

A. That is colored green and that is Anaheim Street which was put on by the City, on a bond issue, and the bonds were issued against a strip 150 feet wide on each side of the boulevard and the bondholders foreclosed and took the 300 feet for improvement of the sixty, so the Corporation lost 360 feet in width there for the construction of [57] Anaheim.

(Testimony of Charles C. Miller.)

Q. This construction was put in by the governmental authorities (indicating on said exhibit)?

A. Yes.

Q. And this purple legend indication is the indication of the Coast Highway? A. Yes.

Q. And the highway that runs along the eastern portion of the Palos Verdes project and through the area which you indicated as sold to the Snows?

A. Yes.

Q. Were there any other existing paved roads as of the end of September 30, 1944, on this Ranch than are indicated?

A. That is the Palos Verdes Drive North that is shown in whatever color that is.

Q. Oh, this color here (indicating on said exhibit)? A. Yes.

Q. When was that put in?

A. I just know it was prior to 1936.

Q. Prior to 1936?

A. I think it was in the early '30's.

Q. Do these road legends indicate all of the paved roads which were on the Ranch as of September 30, 1944?

A. There is Gaffey Street that shows on the little insert there, running down between the green and the red.

Q. This portion here (indicating)?

A. No. Further over. That is Gaffey running down [58] there along the railroad right of way. That runs through what was at that time property owned by the Corporation, but that has been there

(Testimony of Charles C. Miller.)

more years than I know anything about. I don't know just when it was put through. That is one of the main roads down to San Pedro.

Mr. Behnke: I would like to introduce this into evidence, your Honor, as Plaintiff's Exhibit No. 7.

The Court: It may be received.

(Said document, so offered and received in evidence, was marked Plaintiff's Exhibit No. 7.)

(Document marked as Plaintiff's Exhibit No. 8, for identification.)

Deputy Clerk Drew: Exhibit 8, for identification.

Q. (By Mr. Behnke): For the purposes of the record, Mr. Miller, you have placed these over the aerial photograph, and how do you place the overlay with respect to the Ranch property?

A. I have them move the overlay around until the roads shown on the photograph match with the roads of the overlay.

Q. Now, this is a map purporting to show the sales and gifts of land prior to September, 1944. Would you explain to the Court how you prepared this map?

A. Yes. I took the Corporation's records of sales and segregated those made prior to September, 1944, and then, from the descriptions and the parcel maps, a great [59] many of which I prepared myself. I located them on this map and colored them accordingly.



(Testimony of Charles C. Miller.)

Q. Now, the colors that you used, you have used an orange, you indicated for industrial purposes?

A. That is a solid orange.

Q. That is this particular orange here and this orange here (indicating on map)? A. Yes.

Q. And by that indication you have indicated the use to which that property was put by the purchaser?

A. It was the use permitted. I do not know what the purchaser did with it, but that was his right.

Q. To use it for industrial purposes?

A. Yes.

Q. And the pink designation indicates gifts that were made, and which portions are those, that gifts were made of land?

A. Up in the upper middle of the picture, there is a portion that was given to the Chadwick Seaside School and then down in the inset, a portion there at Palos Verdes Drive and Western, you see those two parcels——

Q. This portion here (indicating on map)?

A. Yes, both north and south of Palos Verdes Drive and the west side of Western was property that was donated to the County Housing [60] Authority.

Q. And do you recall which year that was done?

A. No, I don't remember the year.

Q. And the next legend shows "Property Acquired by Governmental Agencies."

A. That would be colored borders.

(Testimony of Charles C. Miller.)

Q. Colored borders in blue?

A. Yes. There is an area over here on the lower left hand corner of the property, the point is where the lighthouse is and then back of that and up to a portion of Crest Road, which was the part taken by the United States Government for gun placements during the War.

There is a tiny, little parcel in here (indicating on map) that was taken long before I came there; I don't know the exact date.

There is a little parcel up on Crest Road just north and east of the last piece I was speaking of.

There is an area down in the—incidentally, this (indicating on map) is what we locally call the Panhandle area along, that is at the south side of Palos Verdes Drive North and west of Gaffey—there is an area taken there by the United States for the Navy.

Then, up here at Narbonne and Palos Verdes Drive North, there was an area there taken by the Metropolitan Water District of Southern California.

Q. And the portions outlined in green, I don't see them [61] very well on this map.

A. Green doesn't show up against that kind of a background.

Q. If we put something in there——

A. I just put a white piece of paper in back of it. It would show it.

Q. And the portions that you delineated in green, what does that indicate?

(Testimony of Charles C. Miller.)

A. That is property that was deeded to members who were stockholders in the Corporation?

Q. To themselves? A. Yes.

Q. And the other delineation circled in pink color, they represent what?

A. That is sales to individuals rather than to members of the Corporation.

Q. Which would include the parcel sold to Snow, would it, on this particular map?

A. Yes.

Q. Could you on this map delineate the portion sold to Snow?

A. If I could have another piece of white paper, I could tell you.

The portion sold to Snow in 1944 were sales described as Parcels 1 and 2. Parcel 1 is the area on the westerly side of the boulevard, that is Palos Verdes [62] Drive East, and extending from Palos Verdes Drive North southerly, and the outline I indicate here; and then the parcel number 2, that is on the west side of Palos Verdes Drive East, which is indicated by this border here (witness indicating on map). That would be parcel No. 2.

Mr. Behnke: I would like to introduce this as Plaintiff's Exhibit No. 8.

The Court: It will be received.

(Said transparency, so offered and received in evidence, was marked as Plaintiff's Exhibit No. 8.)

(Testimony of Charles C. Miller.)

Mr. Behnke: Will you mark this as Plaintiff's Exhibit 9?

(Map marked as Plaintiff's Exhibit No. 9, for identification.)

Deputy Clerk Drew: Plaintiff's Exhibit No. 9 for identification.

(Said map, Exhibit No. 9, was placed on the easel and a transparency placed or overlaid on said map.)

The Witness: This is a map marked "Lands Assessed to Palos Verdes Corporation for Tax Bills for 1944-1945."

Q. (By Mr. Behnke): How was that prepared, Mr. Miller?

A. I just previous to this time prepared a tax map of property owned by the Corporation and broke it up into small parcels for tax purposes, and that was filed with the County as Assessment Map No. 50 containing 4 sheets. This map is a reduction in scale of those four sheets into [63] one and those parcels are shown and marked on the map identical with the ones on the assessment map. The 1944-1945 was the first year that they used this map for tax purposes, and I have taken those maps and colored in the areas which the Corporation was paying taxes on at that time.

Q. Then, that reflects the Tax Roll ownership as of March 1st, 1944, is that correct?

A. Yes.

(Testimony of Charles C. Miller.)

Q. And what are these indications in black on the map?

A. The numbers with the dollar sign in front of them are the Assessor's valuations of the parcels at that time.

Then, a number like here (indicating on said map), number 14, that is the parcel number.

304.6070 is the acreage.

And each parcel has the identifying number, the acreage and the Assessor's valuation.

Q. Then, these portions which are excluded are those portions that were not assessed to the Corporation as of that date, is that correct?

A. Yes.

Mr. Behnke: I would like to introduce this into evidence, your Honor.

The Court: It may be received.

Deputy Clerk Drew: Plaintiff's Exhibit [64] No. 9.

(Said map, so offered and received in evidence, as aforesaid, was marked Plaintiff's Exhibit No. 9.)

Mr. Behnke: You may cross-examine.

### Cross-Examination

By Mr. Mahoney:

Q. Mr. Miller, you made the survey for the Snow sale? A. Yes.

Q. Then, you also made the survey for all the other acreage sold in that year?

A. Yes. What year?

(Testimony of Charles C. Miller.)

Q. The year 1944? A. Yes.

Q. Or correctly, the taxable year ending September 30, 1944? A. Yes.

Q. Now, you stated that your Exhibit 7, which is an overlay showing roads, the paved roads on the Rancho Palos Verdes, showed all the paved roads that were on the Ranch at the time the overlay was drawn, or all the roads that were paved in the year 1944. Were there other unpaved dirt roads on the Ranch at that time?

A. Oh, there are quite a few farm roads there, but no public road.

Q. But there were dirt roads running throughout this property? [65] A. Yes.

Q. Do you know what these roads were used for at that time?

A. Well, for farming purposes.

Q. And how would you classify those roads, as improved dirt roads or plain unimproved dirt roads? A. We just call them farm roads.

Q. Are they accessible to automobiles?

A. We drive over them with automobiles, yes, but they aren't open to the public.

Q. They were private roads of the Rancho?

A. Yes; and I understand that each time they cultivated the land, when they started driving again they had a different road; they didn't maintain the same location all the time with these same farm roads, except where they had to cut a gash around a hill to get around it.



(Testimony of Charles C. Miller.)

Q. Are these roads too numerous to indicate on the map?

A. Well, they are probably not too numerous to indicate, but I don't have any means by which I could draw them on the map and they are more or less floating.

Q. In relation to Plaintiff's Exhibit No. 8, which is an overlay on the aerial photograph, you mentioned certain gifts of the Corporation. Did these gifts occur in the taxable year ended September 30, 1944, or were they over a period of time?

A. I don't think you understood the situation. I [66] wouldn't imply that there were gifts to members of the Corporation. There were parcels, as I understood, sold to members of the Corporation. The gifts were to other organizations, like the County Housing Authority and the Chadwick Seaside School.

The Filiorum area is a large tract of land that the various members of the Corporation acquired for their own personal use.

Q. Then, these areas that you had mentioned on Plaintiff's Exhibit No. 8 were actually sales to the stockholders of the Corporation?

A. That is my understanding, yes.

Q. Did the overlay that is labeled Plaintiff's Exhibit No. 8 include only acreage sales made in the year 1944, or did it include acreage sales made in earlier years?

A. It had sales made in earlier years, yes.

(Testimony of Charles C. Miller.)

Q. How far back did the sales go?

A. Well, I don't know how far back. Some place in the '30's, I believe, particularly the Filiorum area; they were all made in the '30's, that is to the corporate owners.

Q. Have you made any subsequent surveys of the area sold to the Snows in 1944? A. Yes.

Q. Has any of that property been used for subdivision purposes? [67] A. Yes.

Mr. Mahoney: No further questions.

The Court: You may step down.

Mr. Behnke: Mr. Vanderlip.

The Court: Do you want Mr. Miller any more?

Mr. Behnke: No, your Honor. He may be excused so far as we are concerned.

### FRANK A. VANDERLIP, JR.

called as a witness herein on behalf of the Plaintiff, having been first duly sworn, testified as follows:

#### Direct Examination

By Mr. Behnke:

Deputy Clerk Drew: State your name, please?

A. Frank A. Vanderlip, Jr.

Q. (By Mr. Behnke): Mr. Vanderlip, what is your address? A. Palos Verdes Ranch.

Q. Are you now President of the Palos Verdes Corporation? A. I am.

Q. Are you also a member of the Board of Directors of the Corporation? A. I am; yes.

(Testimony of Frank A. Vanderlip.)

Q. How long have you been a member of the Board of Directors?      A. Since 1932.

Q. And have you served in other capacities, other offices [68] of the Corporation than President?      A. Yes.

Q. And as such officer and member of the Board are you familiar with the operations and activities of the Corporation?      A. Yes, sir.

Q. You have listened to the testimony of Mr. Benedict, the Chairman of the Board?

A. I did.

Q. And do you have knowledge of the matters to which he testified?      A. Yes.

Q. And if you were asked the same questions that were asked him under oath on direct examination, would your answers be substantially the same——      A. They would.

Q. (Continuing): As to the matters to which he testified?      A. Yes.

Q. Now referring to this Plaintiff's Exhibit 7 showing the water lines and the roads, this road which was put in here (indicating on map) along the southerly portion and eastern portion of the property, do you know when that was put in?

A. It was put in sometime between '24 and '26.

Q. Was it put in prior to the formation of the Corporation [69] itself?

A. I couldn't be perfectly sure of that. Certainly some of the money that came from the sale of Palos Verdes Estates was used for the purpose of putting in those roads.

(Testimony of Frank A. Vanderlip.)

Q. And this road that is indicated in pink here, along here (indicating on map), and with the extension out here (indicating), was that improvement made by the Corporation?

A. The part in pink that goes to the section in blue was made by the County. The part in pink that goes east from the reservoir was done at the same time, in '24 to '26, that Palos Verdes Drive South and East was built.

Q. And this portion in green Mr. Miller testified as put in under a bond assessment by a governmental authority.

A. Well, actually it was put in before '13 or when we acquired the ranch, but it was widened and paved at some point later on, when the assessment was put on it.

Q. Now, when the Corporation acquired this property what was the character of the land insofar as improvements were concerned on the ranch?

A. When the Corporation acquired the property?

Q. Yes.

A. I can't be sure which side of the Corporation's acquisition of the property those roads were actually put in, [70] but shortly after that the roads were completed as shown on the map and a water pipe was brought from Palos Verdes Estates——

Q. This map shows the water line from the Palos Verdes Water Company, and on the north,

(Testimony of Frank A. Vanderlip.)

that was put in not by the Corporation? Was it put in by the Corporation?

A. The Corporation bought sufficient stock in the Palos Verdes Water Company to put in the line on the southwest. The remainder was all put in by the Palos Verdes Water Company with money they got from Palos Verdes Estates.

Q. And what was the purpose of this water line that ran from the Palos Verdes Estates into this area here (indicating on map)?

A. Well, primarily for irrigation.

Q. Irrigation in connection with the farming activities of the Corporation? A. Yes.

Q. And what use was put by the Corporation of the roads that were indicated here on the map?

A. I believe after we built the roads they were dedicated to the County that subsequently did the paving on them. Then they became public roads.

Q. And are those roads used in connection with your farming activities? [71]

A. Well, of course, it was the only reasonable access to the farm land.

Q. And this road indicated in green across the center of the property, I believe that is known as Crest Drive, is it not? When was that put in?

A. About 1922.

Q. And what was the purpose of putting that road in?

A. So as to get reasonable access to the high parts of the ranch.

Q. Calling your attention to the portions in blue,



(Testimony of Frank A. Vanderlip.)

that indicate the water lines of the Rancho Mutual Water Company; is that right?      A. Yes.

Q. And that is a separate corporation from the Palos Verdes Corporation?      A. It is.

Q. And the use of that was in connection with the subdivided portions of Rolling Hills, was it not?

A. Yes.

Q. Referring to the section that was sold to Snow during the year 1944, did the Corporation, prior to its sale, make any improvements on that particular real property?      A. No.

Q. The only improvement was one that had existed [72] since approximately 1924, when this road was put in?      A. That is right.

Q. And this water line here (indicating) was not put in by the Corporation at that time?

A. No.

Q. In fact, that is the water line of the Palos Verdes Water Company, which is a separate corporation?      A. Yes.

Q. And this land has been used by the Corporation since 1926, in connection with its farming activities?      A. Farming, mining, grazing.

Q. And grazing. And of this area approximately how much is tillable land, that is suitable for farming purposes?      A. About 40 per cent.

Q. About 40 per cent. And did the Corporation make a maximum use of the land insofar as they could, to the extent of its tillability for farming operations?      A. I hope so.



(Testimony of Frank A. Vanderlip.)

Q. Now, could you indicate to me where on this map might be indicated the so-called mining operations of the diatomaceous earth?

A. The lease to the Dicalite Mining Company is this area in there which you can see in white, which has been mined (indicating on map). [73]

The Livingston quarry is in this section (indicating on map).

Graham Brothers quarry is in that section (indicating on map).

And Livingston Brothers have quarried this section (indicating on said map).

Q. Those properties were leased to the various organizations that you refer to? A. Yes.

Q. Under a royalty basis or some other basis?

A. Yes.

Q. And throughout the years, then, you have derived substantial income to the Corporation from those sources? A. Yes.

Mr. Behnke: And that I think is indicated, your Honor, in the Stipulation, the amount.

Q. Did you also, from time to time, lease the property for oil exploration?

A. We have at various times.

Q. You have? A. Yes.

(Map and overlay transparency were placed on the easel.)

Q. Mr. Vanderlip, referring to Plaintiff's Exhibit 1 showing the parcels of land sold prior to September 30, [74] 1944, now, these sales were made

(Testimony of Frank A. Vanderlip.)

over the period of the corporate existence, and some of the parcels were sold by the Syndicate prior to the formation of the Corporation, is that correct?

A. I believe the Syndicate only sold what is called Palos Verdes Estates. They might have sold one or two other small pieces, but I doubt it.

Q. That is this area indicated here (indicating on map)? A. That is right.

Q. And the portion off the map indicated——

A. Well, it is right where your finger is there.

Q. Here, Miraleste? A. Yes.

Q. And that portion was subdivided and improved by the Palos Verdes Estates?

A. That is right.

Q. And the Corporation has had no interest in either of those parcels since the date they were sold in 1923, is that correct? A. That is right.

Q. Now, in 1926, was there a sale made to one F. A. Vanderlip? A. Yes.

Q. Was that the only sale that was made during that year? A. I believe so. [75]

Q. And what was there sold in that year? Could you indicate?

A. This section in here (indicating on map) was sold in that year, for a home site.

Q. For a home site? A. Yes.

Q. And F. A. Vanderlip was your father?

A. That is right.

Q. And prior to that time he had acquired certain acreage in this area (indicating on map), had he not? A. No, not prior to that time.

(Testimony of Frank A. Vanderlip.)

Q. Not prior to that time. Did he acquire land subsequent to that time, from the Corporation?

A. Yes.

Q. When did he subsequently acquire land from the Corporation?

A. I believe the next year he bought the piece in here (indicating on map). Then, 2 or 3 years later, he bought the remaining part up there (indicating on said map).

Q. And did other members of the Corporation buy land from the Corporation? A. Yes.

Q. What parcels were they? Would you point out the parcels and tell us the names of the people who purchased [76] them?

A. Well, this piece here (indicating on map) went to my aunt, to Mr. and Mrs. Harden.

Mr. Charles Schwedtman bought that piece (indicating on said map).

Mr. E. D. Levinson this piece (indicating on said map) and Mr. Benedict that one (indicating on said map).

Q. And was that land subsequently put into a corporation, a separate corporation?

A. The land that my father bought was put into a corporation.

Q. Was that the Filiorum Corporation?

A. Yes.

Q. What were the circumstances in connection with each one of those sales; how were they made?

A. Well, various stockholders would come out to the ranch and look it over, at various times, and

(Testimony of Frank A. Vanderlip.)

decide they wanted to build a cottage or house somewhere and my father was President of the Corporation, then, and I guess they asked him if they could buy something.

Q. Was there any advertisement made——

A. No.

Q. ——in connection with those sales?

A. No.

Q. Those were sales which were negotiated between the [77] members of the group that were stockholders of the Corporation? A. Yes.

Q. And down through the years were there years when no sales were made?

A. Yes, a number of years.

Q. In a number of years would you say there were no sales at all made? A. Yes.

Q. And during many years a single sale might have been made? A. Yes.

Q. And referring to the Stipulation of Facts, coming down to the year 1939, when one sale was made, was this sale made to I. W. Morse?

A. Yes.

Q. What parcel was sold to him?

A. He bought a section over here next to Miraleste to develop.

Q. How did that sale arise?

A. Well, he was a local real estate man and he had been doing some selling in Miraleste and thought the roads, more or less, naturally would extend into that section (indicating on map) and wanted to do it for his own benefit.

(Testimony of Frank A. Vanderlip.)

Q. And there was also another sale, was there not, in that [78] year to Walter Limacher; do you recall that sale?

A. Yes. He bought a piece up here (indicating on said map).

Q. That is outside of Rolling Hills?

A. Outside of Rolling Hills, but contiguous to it.

Q. And those were the only two sales in 1939?

A. Yes, sir.

Q. And in 1940, a sale was made to the Metropolitan Water District?

A. Yes. That is this piece here (indicating on said map).

Q. I think that is not the one. There is .140 acres. Is that it?

A. Well, that would be a part of that. When they bought the original piece, they had to swing a new alignment of the road because the old road went through a part of the section where the reservoir was and they had to evidently fill out their original holding.

Q. Oh, they had purchased prior to that time, in 1938, the large block?           A. Yes.

Q. Was that the only sale that was made during 1938, of the Ranch property?           A. I believe so.

Q. What were the circumstances of making that particular sale? [79]

A. The Metropolitan Water District surveyed the area. They have to have a reservoir at the terminal end of the mains. As I remember, they

(Testimony of Frank A. Vanderlip.)

decided that this piece of ground was high enough and relatively earthquake-proof, so they picked it.

Q. Was there a broker involved in the transaction?

A. I believe that they dealt purely with Mr. Hanson.

Q. He was your General Manager at that time?

A. Yes.

Q. Now, during the year 1941, there occurred eight sales, I believe. There was one sale to Graham Brothers, Inc. Could you designate that parcel?

A. That was a piece of ground here (indicating on said map) where they had been doing some quarrying under lease and they bought the quarry site.

Q. And did the Corporation advertise that prior to its sale? A. No.

Q. Did the Graham Company come to the Corporation and make an offer to buy that?

A. Yes.

Q. And at that time the Corporation deemed it acceptable and the sale was consummated with them, is that correct? A. Yes.

Q. And during 1941, there was another sale to the [80] Press-Wireless Company?

A. That is this section here (indicating on said map).

Q. Approximately how many acres were involved in that sale?

A. Something over a hundred, I think; I think it was 105 or 104.



(Testimony of Frank A. Vanderlip.)

Q. What were the circumstances of that sale?

A. There were some people who wanted to do some radio work and they needed high land and looked over the area and decided that that section did them the best job. So they asked if they could buy it.

Q. And the Corporation was willing at that time to sell it to them, to negotiate the sale?

A. Yes.

Q. Now, also in that year a sale occurred to the Denni Investment Company; which property was that?

A. That is beyond the Panhandle and it was in this neighborhood (indicating on said map).

Q. And do you recall the circumstances of that particular sale?

A. Well, I believe Denni had done some of the road work at Rolling Hills and we preferred to trade land with him and paid a bill.

Q. What was done with that land subsequently, do you know, to your knowledge? [81]

A. Well, it now belongs to the Union Oil Company.

Q. Was it subdivided and developed at all by Mr. Denni?

A. No. It is wholly commercial.

Q. Commercial property?

A. Yes.

Q. And during the subsequent years, down through 1944, a number of acreage sales were made. On these sales that were made, were the areas which were sold platted on any subdivision map prior to sale?

A. No.

(Testimony of Frank A. Vanderlip.)

Q. Were they improved prior to sale, by the Corporation, in any way?

A. Well, only accidentally by such roads as might previously have been put in.

Q. And those parcels were surveyed and described by metes and bounds?

A. That is right.

Q. At the time of the sale? A. Yes.

Q. And delineated for purposes of the sales?

A. Yes.

Q. Were those sales the result generally of the activities of the Manager, Mr. Hanson, or of Mr. Lawyer, whoever might have been involved in that particular time?

A. Well, they would have been entirely in Mr. Hanson's [82] administration.

Q. This gift to the Chadwick School in 1944, that was this area here (indicating on map)?

A. Yes.

Q. What was the purpose of making that gift to the School?

A. Well, the Chadwick School had started in San Pedro and had done a fine job. A neighbor in Palos Verdes Estates said he would build some buildings if we could give him an appropriate piece of land and my father, who has always been in favor of education, gave them a piece of land.

Q. In connection with these sales, you say that there was no "For Sale" signs put on the Ranch?

A. Not to my knowledge.

(Testimony of Frank A. Vanderlip.)

Q. Was Mr. Hanson authorized to put out any "For Sale" signs on the Ranch?

A. I have no recollection of his asking permission to.

Q. And there were no real estate offices on the Ranch, other than in the Rolling Hills section?

A. No.

Q. Now then, in making these sales, was there any policy or course of conduct that the Board of Directors endeavored to follow in making the particular sales that were involved?

A. Well, it certainly was our policy to hold the main body of the ranch intact for a single sale, when we were [83] under pressure, as a matter of considering the sale of areas that wouldn't hurt such a sale. On that account there were a few sales that were made on the north side of Palos Verdes Drive North, which was really outside of the main body of the Ranch and facing on to the Dicalite mine which was here (indicating on map), so they weren't really very fine home sites. A few people wanted land outside of Rolling Hills and they were sold acreage pieces. But, generally, the idea was that, if we had to sell something, to sell it around the periphery where the main bulk could be kept for a block sale.

Q. During the year 1944, we have a sale made to one Snow of 422 acres. Are you familiar with the circumstances as to how that sale arose and what transpired?

A. Dr. Snow lived in the neighborhood and had

(Testimony of Frank A. Vanderlip.)

told Moore that he liked some of the land and Moore came to Hanson and said, "What can we sell him? He has got so much money to spend." And they spent some days walking and riding over the hills until Dr. Snow more or less delineated what he wanted, and a price was set and he bought it.

Q. Who is this Moore that you are referring to?

A. He is a local real estate agent.

Q. Now, this real property which was sold to Snow, had that been used by the Corporation in connection with [84] its farming activities?

A. That is right.

Q. And was income being derived from that?

A. Yes.

Q. At the time of the sale? A. Yes.

Mr. Behnke: We have here a folder of the leases of the Corporation for 1944. I would like to have this marked as Plaintiff's next exhibit. No. 10, is it?

Deputy Clerk Drew: Plaintiff's Exhibit No. 10 for identification.

(Said document was marked by the Deputy Clerk as Plaintiff's Exhibit No. 10 for identification.)

Q. (By Mr. Behnke): I ask you if you can identify this document? A. Yes.

Q. And this is a crop sharing farm lease?

A. That is right.

Q. And was this one of the two types of leases

(Testimony of Frank A. Vanderlip.)

that were used by the Corporation in leasing its property?      A. Yes.

Q. And that is the type, being the cash lease rather than a crop sharing arrangement, as this provides?      A. Yes.

Q. And this lease is dated October 1, 1943, and it is [85] for a term beginning on that date and ending September 30, 1944. Does this lease cover portions of the tillable land that was sold to Snow?

A. Yes, sir.

Q. O.K. Can you indicate which portions, in this lease, were sold in the Snow parcel?

A. Well, it appears to be parcels: Section 3, Parcel 3, parts 4, 5, 6, 7, 8, 9 and 10.

Q. And this lease is signed by Mr. Harold M. Thorsen. Was he the lessee at that time?

A. Yes.

Q. I note that it was not executed by the Corporation. Has it been a custom or a practice that the file copies are not executed?

A. It might have been, then.

Q. However, an executed lease, executed by the Corporation, was delivered to Mr. Thorsen, was there not?      A. Yes.

Q. And this is the lease under which the Corporation operated so far as that property was concerned during that period of time?      A. Yes.

Mr. Behnke: I would like to introduce this in evidence, your Honor.

The Court: It may be received. [86]

Deputy Clerk Drew: Exhibit 10 in evidence.



(Testimony of Frank A. Vanderlip.)

(Said document, so offered and received in evidence, was marked Plaintiff's Exhibit No. 10.)

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## PLAINTIFF'S EXHIBIT No. 10

### Crop Share Farm Lease

\* \* \*

Reservation for Surveying, Oil Well Drilling, etc.

15. Lessor reserves for itself, its employees, agents, assignees, and licensees: The right to enter upon such portion of the premises as it may desire and survey the same; also the right to construct roads, streets, pipe lines, and do similar work of construction, and to erect and construct telegraph and telephone lines upon such part of said premises as it desires, and thereafter to use such roads, streets, telegraph, telephone, and pipe lines, and other construction work; and, further, the right to enter upon said premises and prospect and/or drill for and/or produce oil, gas, asphaltum, naphtha, and other minerals and like substances thereon, and to use such portion of the premises as it desires for such purpose, together with a reasonable space for machinery, tanks, and such equipment and machinery as may be necessary in connection with such work. It is understood that all such work shall be done with as little damage as possible to any crops growing on the premises at the time, and that dam-



(Testimony of Frank A. Vanderlip.)

ages shall be claimed by Lessee only in such cases as actual construction work is done and not for any surveying or engineering work. Lessor shall pay Lessee only actual damage resulting from such entry, work, and use and damages shall not include prospective or speculative damage to any crop but shall be limited to the actual expenses incurred by Lessee in preparing the land and planting the crops.

\* \* \*

Received in evidence May 1, 1951.

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Q. (By Mr. Behnke): During this year of 1944, would you tell me approximately how many acres were under farming operations during that year?

A. In the entire Ranch, or in that piece?

Q. In the entire Ranch? A. About 4,000.

Q. The lease, itself, covers only the tillable portions of the Ranch, is that correct? A. Yes.

Q. What about the other portions of the Snow property that are not included in that lease, was there any commercial use made by the Corporation of those areas?

A. Some sheep were being run on the Ranch at that period and they were grazing in the canyons and on the untillable areas.

Q. And was income then derived from that source, to the Corporation? A. Yes.

(Testimony of Frank A. Vanderlip.)

Q. And the areas not tillable on the Snow property were used for this grazing purpose, as well as the other canyons?

A. Well, such areas as were appropriate for grazing. [87]

Q. Since the Corporation acquired this property in 1926, has the Corporation bought any other properties?

A. Outside of the original area, no.

Q. And during this period of time it has only sold its own property, is that correct?

A. That is right.

Q. The Corporation has never acted as a broker or development company for any other persons?

A. No, sir.

Q. During this year what would you say were the varied activities of the Corporation, during 1944, and prior?

A. Well, farming, mining and grazing were our main sources of income.

Q. Did it have any other activities?

A. It sold a piece of real estate now and then.

Q. It had the Rolling Hills project?

A. Yes.

Q. And it was endeavoring to dispose of all or substantially all of its real property?

A. Yes, from the inception of the Corporation.

The Court: Just a moment. Read that last question and answer.

(Record read by the Court Reporter, as requested.)

(Testimony of Frank A. Vanderlip.)

Q. (By Mr. Behnke): It was endeavoring to dispose of its property substantially in the condition in which it [88] acquired it? A. Yes.

Q. Now, during this year 1944, there were other sales of acreage parcels by the Corporation, were there not, outside of the Rolling Hills development?

A. Yes, a few.

Q. And as to these other acreage sales, does the Corporation claim that they should be treated as capital assets the same as the Snow parcel?

A. Well, I believe that an error was made in not making claim for such, but we do.

Q. You mean that the claim which was made should have included the other acreage sales that were made during that year? A. Yes.

Mr. Behnke: You may cross-examine, counsel.

### Cross-Examination

By Mr. Mahoney:

Q. Mr. Vanderlip, when did you become President of the Palos Verdes Corporation?

A. I have been President twice. I have recently become President, on the 1st of October, 1950.

Q. And the previous period?

A. From 1937, until about 1940.

Q. I notice that some of these sales were [89] handled through a Vanderlip. Are you a broker?

A. No.

Q. During the years 1935, up until 1942, or 1943, there was quite an amount of delinquent real property taxes upon the entire Rancho, was there not?

(Testimony of Frank A. Vanderlip.)

A. Yes.

Q. When were these taxes finally paid?

A. I believe about 1943.

Q. 1943?

A. I am not perfectly sure of that. No. I am wrong about that. They were paid after the Snow sale that we are talking about, because that was part of the money that was used to pay those taxes.

Q. You spoke of certain water lines that were set out through the Rancho by the Palos Verdes Water Company and were used for industrial purposes. Those same lines could be used for residential purposes, could they not? A. Yes.

Q. And this Rancho Mutual Water Company of which you spoke is a part of the Rolling Hills development?

A. I guess the answer to that is yes. I don't know just what you mean by a part of it.

Q. Well, it was incorporated into a service of the Rolling Hills development?

A. That is right. [90]

Q. The majority of the stock of that Company is owned by the Palos Verdes Corporation, is it not? A. At the present time, yes.

Q. Now, are you aware of the restrictions that were in the Snow deed? A. No; I am not.

Q. Are you aware of any restrictions that were in any of the other acreage sales that took place between the years 1939 to 1944, restrictions as to use?

(Testimony of Frank A. Vanderlip.)

A. Well, generally speaking, the land was restricted to single-family dwellings.

Q. Was it the policy of the Corporation to place those restrictions in all deeds of acreage?

A. Where it seemed appropriate. Now, we can't say all of it, because certainly it ends on the property—the property on the Panhandle is not so restricted.

Q. In other words, the property sold for industrial purposes was not so restricted?

A. That is right.

Q. But all other property was so restricted?

A. Yes.

Q. You mentioned certain sales to stockholders of the Corporation. My understanding is that they occurred in the late '20s or early '30s; is that correct?

A. That is right. [91]

Q. At one time the Palos Verdes Corporation, as a part of its public relations were playing a radio program in Long Beach, were they not?

A. I have no recollection of it. What was the date?

Q. On all these sales of acreage, whether the sale was made by the manager, vice-president or by others, a commission was paid?

A. I believe so.

Q. I mean there were no sales on which there was not a commission paid?

A. No.

Q. In the year 1944 where was the Corporation's office located?

A. In the gate house at Rolling Hills.

(Testimony of Frank A. Vanderlip.)

Q. Was there also a real estate brokerage house in the gate house at Rolling Hills?

A. I believe so.

Q. You stated that the land that was sold to the Snows was to a certain extent under lease for crop purposes at the time of sale. What was done with the lease at the time of the sale?

A. The sale was doubtless made subject to the lease. The lease was dated in October. By that time of year the hay was probably off the ground; and I wouldn't be surprised if Snow continued to lease to Thorsen—I don't know. [92]

Q. Mr. Vanderlip, I call your attention to Plaintiff's Exhibit No. 10, which is a copy of the crop lease to Harold M. Thorsen, and calling your attention to paragraph 15 of the lease, was that clause substantially the same in all leases made by the Corporation? A. Yes.

Q. For farming on a crop sharing basis?

A. Yes, sir.

Mr. Mahoney: No further questions.

Mr. Behnke: No further questions.

The Court: That is all.

Mr. Behnke: The Plaintiff's rests, your Honor.

(Whereupon the Plaintiff rests its case.)

Mr. Mahoney: The Defendant has no further evidence, your Honor.

The Court: Is there any argument?

Mr. Behnke: I would like to argue it, your Honor. I did not expect that we would finish to-



day, so I did not bring my books and documents that are necessary for legal argument. Would it be possible to set aside some time tomorrow for argument, or would you prefer to have the matter submitted on written briefs?

The Court: We have a case that goes to trial tomorrow. The Clerk calls my attention to the fact that tomorrow's case is set for 2:00 p.m., so if you care to, you can come [93] in tomorrow morning. How long do you want to argue?

Mr. Behnke: I would like to have about three-quarters of an hour, which I think will be sufficient.

The Court: All right.

Mr. Mahoney: About 20 minutes, your Honor.

The Court: About 20 minutes——

Mr. Behnke: It may be that I can cut mine down a little bit. I think we will both take an hour and a half in all.

The Court: We will continue it until 10:00 o'clock tomorrow morning.

Mr. Behnke: Thank you, your Honor.

(And thereupon an adjournment was taken until the following day, Wednesday, May 2, 1951, at the hour of 10:00 a.m.) [94]

Certificate in Re  
Proceedings of May 1, 1951

I hereby certify that I am a duly appointed, qualified and acting official court reporter of the United States District Court for the Southern District of California.

I further certify that the foregoing is a true and correct transcript of the proceedings had in the above-entitled cause on the date or dates specified therein, and that said transcript is a true and correct transcription of my stenographic notes.

Dated at Los Angeles, California, this 10th day of May, A.D. 1951.

/s/ THOMAS B. GOODWILL,  
Official Reporter.

[Endorsed]: Filed August 17, 1951.

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[Title of District Court and Cause.]

### CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the United States District Court for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 68, inclusive, contain the original Complaint; Answer; Stipulation of Facts; Findings of Fact and Conclusions of Law; Judgment; Notice of Appeal; Two Designation of Record on Appeal and Motion and Order Extending Time to Docket Appeal and a full, true and correct copy of minute order entered May 3, 1951, which, together with copy of reporter's transcript of proceedings on May 1, 1951, and original plaintiff's exhibits 1 to 10, inclusive, and original defendant's exhibits A to L, inclusive, transmitted herewith,

constitute the record on appeal to the United States Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing and certifying the foregoing record amount to \$2.00 which sum has been paid to me by appellant.

Witness my hand and the seal of said District Court this 28th day of September, A.D. 1951.

[Seal]      EDMUND L. SMITH,  
Clerk.

By    /s/ THEODORE HOCKE,  
Chief Deputy.

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[Endorsed]: No. 13116. United States Court of Appeals for the Ninth Circuit. Palos Verdes Corporation, Appellant, vs. United States of America, Appellee. Transcript of Record. Appeal from the United States District Court for the Southern District of California, Central Division.

Filed September 30, 1951.

      /s/ PAUL P. O'BRIEN,  
Clerk of the United States Court of Appeals for the  
Ninth Circuit.

In the United States Court of Appeals,  
Ninth Circuit

No. 13116

PALOS VERDES CORPORATION,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

STATEMENT OF POINTS ON WHICH AP-  
PELLANT INTENDS TO RELY UPON  
APPEAL TO THE UNITED STATES  
COURT OF APPEALS, NINTH CIRCUIT

(1)

Comes Now the Appellant in the above-entitled matter and sets forth the following points on appeal to the United States Court of Appeals, Ninth Circuit, upon which it intends to rely:

I.

The Findings “that all sales of unsubdivided real property were subject to restrictions in the deed preventing use of the property except for residential purposes” contained in Article XVIII of the Findings of Fact are erroneous and not supported by the evidence.

II.

The Findings “that although plaintiff made thirty-four (34) additional sales of unsubdivided property

in the fiscal year ending September 30, 1944, which were reported as ordinary income, it has not at any time contended that this acreage represented a capital asset," contained in Article XIX of the Findings of Fact are erroneous and not supported by the evidence.

### III.

The Findings "that the plaintiff was engaged in the real estate business" contained in Article XXIV of the Findings of Fact are erroneous and not supported by the evidence insofar as said Findings relate to the sales by plaintiff of the unsubdivided portions of its real property.

### IV.

The Findings "that the plaintiff was continuously engaged in the sale of its subdivided and unsubdivided portions of its property" contained in Article XXV of the Findings of Fact are erroneous and not supported by the evidence insofar as said Findings relate to the sales by plaintiff of the unsubdivided portions of its real property.

### V.

The Conclusions of Law "that the plaintiff advertised all of its property for sale to the general public and was willing at all times to sell a portion or all of its unsubdivided realty" contained in Article I of the Conclusions of Law are erroneous insofar as said Conclusions relates to the advertising of the unsubdivided portions of plaintiff's real property.

## VI.

The Conclusions of Law “that the parcel of land sold to one Snow in July, 1944, was not a capital asset nor an asset used in plaintiff’s trade or business but was held primarily for sale to customers in the ordinary course of business” contained in Article II of the Conclusions of Law are erroneous.

Respectfully Submitted:

RILEY AND HALL,

By /s/ WILLIAM D. BEHNKE,  
Attorneys for Appellant.

Affidavit of Service by Mail attached.

[Endorsed]: Filed October 23, 1951.